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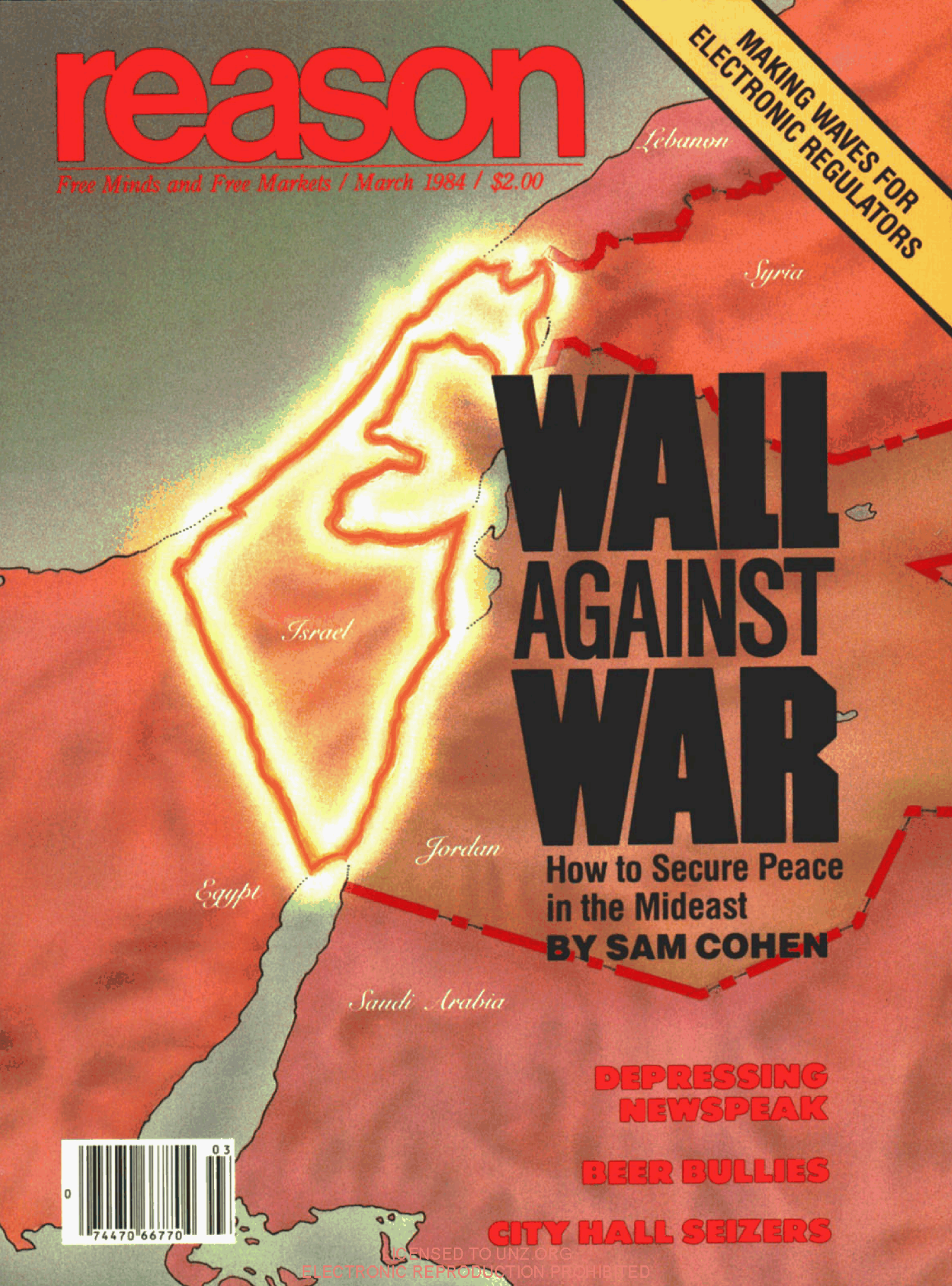
Free Minds and Free Markets / March 1984 / $2.00

MAKING WAVES FOR ELECTRONIC REGULATORS



WALL AGAINST WAR

How to Secure Peace in the Mideast

BY SAM COHEN

DEPRESSING NEWSPEAK

BEER BULLIES

CITY HALL SEIZERS

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Now a breakthrough in micro-electronics brings you astonishing stereo sound from a featherlight FM-receiver SO COMPACT, SO WAFER THIN... IT ACTUALLY FITS IN YOUR SHIRT POCKET!

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The World Has Never Before Seen A Micro FM Stereo So Small In Size... Yet So Big In Performance!

This is the incredible MI-FI SHIRT POCKET STEREO! It's smaller and thinner than a deck of cards ... compact enough to slip into a pocket or purse ... yet so dynamically powerful, it pulls in distant stations with ease!

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The MI-FI SHIRT POCKET STEREO brings you exceptional FM reception because it has NO OTHER circuits or connections to interfere with selective tuning and sound reproduction.

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And 30 milliwatts per channel bring you "driving" stereo sound WITHOUT minimizing the impressive 18-24 hour playing time you can expect from the STEREO's 2 "AAA" batteries (not included).

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Its rugged and durable case is as handsome as it is protective. Its thumbwheel volume control and precision FM tuning dial provide sensitive response. The LED lighted stereo indicator lets you "browse" through the FM band and then lock onto a desired stereo transmission. A handy, top-mounted earphone jack can also be used as an output to full-sized amplified speakers. And the MI-FI SHIRT POCKET STEREO even comes complete with its own velvet-suede drawstring carry pouch.

But one feature most MI-FI owners like best is actually something that's missing — an awkward, protruding metal antenna! On the MI-FI SHIRT POCKET STEREO, the super sensitive FM antenna is built right into the earphone cord!

Earphones Instead Of Headphones... FOR THE ULTIMATE IN COMFORT AND SOUND!

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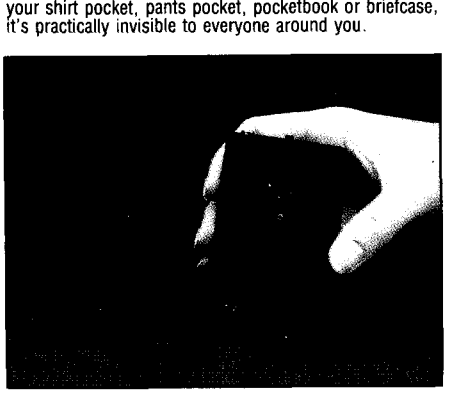
And all the while, they faithfully deliver excellent tone and fidelity — plus extraordinary sound brilliance — whether you're listening to a Beethoven concerto or a New Wave cacophony!

Take It – Use It – Anywhere!

The astonishing compactness of the MI-FI POCKET STEREO brings you a limitless range of listening opportunities.

Listen to it unobtrusively in the office... on a bus, train or plane... or while grabbing your lunch on the run. Sitting in your shirt pocket, pants pocket, pocketbook or briefcase, it's practically invisible to everyone around you.



Listen to it while you're jogging, exercising or bicycling in the park.

Listen to it while you're gardening, working on a project or doing household chores — the MI-FI SHIRT POCKET STEREO is *never* slung over your shoulder so it *can't ever* get in the way!

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MARCH 1984/VOL. 15, NO. 11

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Free Minds and Free Markets

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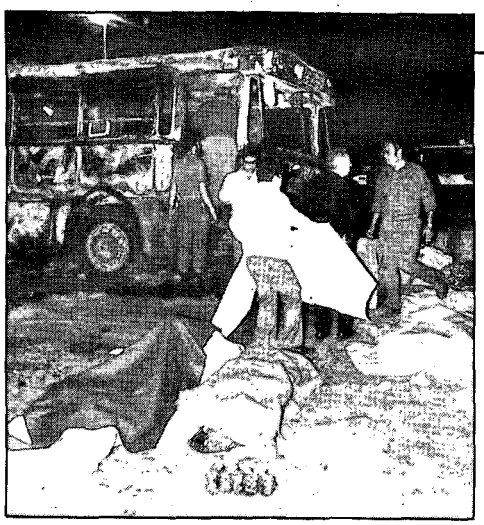

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If Israel's borders were secure against ground invasion, peace might come to the Mideast. And through a daring new use of technology, a noted defense expert argues, Israel can make its borders impregnable.

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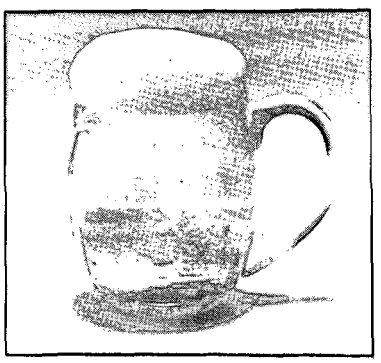

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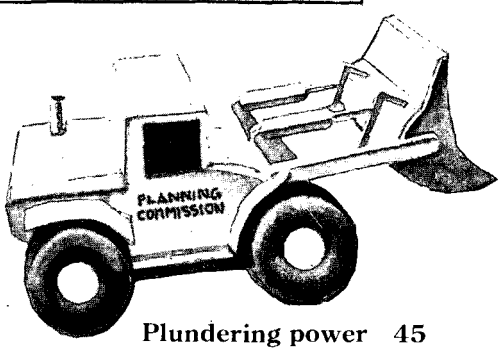

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NOTEs

Sam Cohen, the author of this month's provocative cover story, is also one of the contributors to the new Reason Foundation book, *Defending a Free Society*. That book, the result of nearly two years of work by a nine-member project team, will have appeared in print by the time you read these words. The book develops a framework of principles for assessing government's role in providing national defense, then applies these principles to current US defense problems. It has already received accolades from a number of thoughtful people who read the manuscript, including former White House policy adviser Martin Anderson, columnist John Chamberlain, Gen. Daniel O. Graham of the High Frontier project, and Rep. Ron Paul. Over the next few months the contributors and I will be writing op-ed pieces and doing radio interviews to promote the book. Thus far, I've done a two-hour stint on ABC Radio's Ray Briem program at the end of December and an hour on KGO Radio in San Francisco in January, and I also presented an overview of the book at the Free Marin Supper Club in Marin County, California.

Recent weeks have been big ones for media appearances by other REASON contributors, as well. January cover story author John McClaughry told radio audiences about his findings on Vermont's education vouchers, on both WCKY in Cincinnati and WXYZ in Detroit. Assistant Editor Paul Gordon was interviewed by Mark Pentrack on Pittsburgh's WTKN on his December *USA Today* op-ed piece on movie ratings. Senior Editor Tibor Machan spent an enjoyable evening on the David Brudnoy show on Boston's WRKO Radio, discussing his new book (coedited with M. Bruce Johnson), *Rights and Regulation*. And I did another interview on privatization of local public services, this one on KXL Radio in Portland, Oregon.

Privatization recently received further exposure through the November edition of the Coopers & Lybrand *Executive Alert*, which contained a two-and-a-half-page article titled "Privatization: Less Government, Better Services?" Among the possibilities discussed were selling remote-sensing and weather satellites, privately run airport control towers, and private provision of such local services as garbage collection, fire protection, and hospitals. (The article read like a summary of a number of REASON articles over the past several years.) The article ended with an interesting quote from Hudson Institute economist Irving Levenson: "The private sector has shown itself far better than the public sector in responding to new conditions, in placing emphasis on efficiency without politicization and in keeping up with new technologies."

Many people uncomfortable with US government intervention in Central America strongly oppose the spread of communism there. Recently I met the founder of a *private* organization that shares that concern. The Caribbean Commission, headed by Dr. Alton Ochsner, Jr., promotes free enterprise and free trade in the Caribbean and Latin America. But its major current project is to aid the families of the anti-Sandinista freedom fighters living in refugee camps in Honduras. I've seen Dr. Ochsner's slides from his midsummer visit, and I think this is a worthwhile effort. You can get more information from the Caribbean Commission, 501 Exposition Blvd., New Orleans, LA 70118.

—R.W.P.

Some debate among REASON's editors preceded the decision to publish this month's cover story by Sam Cohen. Would people find the proposed strategy too drastic? Would the Israelis find objectionable a scheme that would allow their government to keep invaders out *and citizens in*? But the Middle East muddle has been so intractable, and the stakes so high, and this is the context in which Cohen's proposal must be weighed.

Since October 1973, when REASON's Viewpoint column came "on line," it has rotated among three authors, although the make-up of the group of three has changed along the way. But we recently decided to try something different—opening the slot to a wider group of REASON contributors who may from time to time have an opinion for our readers to put in their pipes and smoke. So we thank Tom Bethell, Jim Davidson, and Murray Rothbard for their columns over the last few years and welcome the appearance of more Viewpoints, beginning, this month, with Larry Beilenson.

—M.Z.

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How would you like to raise $20,000 to $200,000 in the next 24 hours? Individuals and companies are doing just that every day. How, by a very simple technique that you can read about in my new book called, "THE LAST CHANCE GUIDE TO FINANCIAL SUCCESS." This method of raising capital is entirely LEGAL and is done by both poor as well as the rich. You can even be dead broke, deeply in debt, have bad credit, and still use this fabulous secret in raising huge somes of money in only 24 hours.

How to Raise $200,000 In 24 Hours is however, only one of many subjects included in "THE LAST CHANCE GUIDE TO FINANCIAL SUCCESS." Other money-making subjects include:

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Establish AAA-1 Credit In As Little As 45 Days. A very simple technique gives you millionaire's credit in about two months. It's all revealed in this report.

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EDITORIAL

Robert W. Poole, Jr.

Budget Baloney

It's federal budget proposal time again, so brace yourself for yet another round of disinformation. Amidst great wailing and gnashing of teeth from assorted interest groups, Council of Economic Advisers Chairman Martin Feldstein assures us that federal nondefense spending has been slashed to its political limit. Up and down the land, the voices of responsibility argue that only a major tax increase can save this country from a decade of destructive deficits.

What is a thinking person to make of all this? First, as both Democrats and Milton Friedman are taking pains to remind us, unending deficits *are* bad for us. When the federal government consistently spends more than it takes in in taxes, there are only two ways to cover the difference: sell bonds or inflate the money supply ("monetize" the deficit). Government bonds represent a claim against future taxpayers, many of them not even born yet and certainly not consenting parties to today's spending decisions. In addition, they impose two large present costs. First, the interest payments *for this year alone* are about $100 billion—that's more than half of this year's deficit. And the more capital soaked up by the government, the less there is available for individuals and businesses to invest in new homes, machinery, etc. Moreover, if there's anything we've learned from the inflation of the 1970s, it's that monetizing the deficit is no solution. The hidden tax of inflation is incredibly destructive of the economy and of individuals' lives.

Supply-side economists like Paul Craig Roberts have been pointing out that projections of an endless stream of $200-billion annual deficits are unrealistic. Such projections have already had to be revised downward several times as the economy has roared back to life during the past year. No matter how you look at them many of the numbers for the decade ahead are genuinely frightening.

Advocates of tax increases argue that it was the Reagan administration's cuts in tax rates that have "caused" the deficits. Only the most tortured interpretation of the data can lead to that conclusion. In point of fact, when measured as a percentage of gross national product (GNP), federal tax receipts have remained within a narrow band of 19 to 20 percent from 1970 through 1983. That itself was a significant *increase* from the 17 to 18.5 percent range of the 1950s and '60s. In those earlier decades, federal spending remained very close to federal revenues, but in the 1970s spending began growing faster than revenues, averaging 21 percent of GNP for the decade. And then it began exploding, to 22.9 percent in 1980, 23.5 in 1981, 24.4 in 1982, and an estimated 25.6 percent in 1983. In other words, Reagan's modest tax-rate cuts held the tax burden to a more-or-less constant share of GNP—while federal spending soared. In fact, *federal outlays increased 53 percent between 1980 and 1983.*

But the real crunch is yet to come. The reason federal revenues more or less kept pace with federal spending during the 1970s was bracket creep, the insidious process whereby inflation drove people into ever-higher tax brackets without Congress having to legislate a tax increase. That permitted Congress to create and expand numerous "entitlement" programs—programs that automatically provide payments to people meeting certain criteria, without requiring further action each year by Congress. Today nearly 55 percent of the federal budget—some $454 billion, according to the Grace Commission—goes to various transfer programs, most of them on an entitlement basis. Even after inflation, these programs have grown by 120 percent since 1970, going from 7 percent of GNP to 13 percent today. If expenditures on these programs continued at their average rate of growth from 1976 to 1983 (11.6 percent a year), they would cost $1.1 trillion in 1990 and $6 trillion by the year 2000.

The out-of-control nature of entitlement programs even has prominent Democrats alarmed. *The New Republic's* December 31 cover story featured contributions by Michael Kinsley, Daniel Moynihan, and Bruce Babbitt all acknowledging that spending on such programs *is* out of control and *must* be cut back. They also pointed out, correctly, that most of Reagan's spending cuts have been focused on the relatively small set of domestic spending programs that actually aid the *poor*—programs with means tests. Virtually untouched have been the really big-ticket entitlements—Social Security ($17 billion), Medicare ($42 billion), and farm subsidies ($19 billion)—which aid mostly the middle class.

So when Martin Feldstein says that the limit of domestic spending cutbacks has been reached, what he really means is that the administration hasn't the courage to take on the organized interest groups that benefit at the expense of the general taxpayer. It means Feldstein and Reagan accept as untouchable such sacred cows as:

- A $15-billion Synthetic Fuels Corporation that hands out subsidies to companies that will produce $67-a-barrel oil;
- The $21-billion Payment in Kind program that gave, for example, Arizona farmers an *average* of $69,200 last year;
- Nearly $7 billion for grants and loans to middle-class college students (including *medical* students, in spite of a widely proclaimed doctor surplus);
- A $5-billion program of "revenue sharing" to cities (*what* revenue? one might rightfully ask);
- An $8.4-billion bailout of the big banks via the International Monetary Fund.

And on and on and on. Space does not permit a discussion of the boondoggles on the defense side of the budget: buying weapons systems that don't work, mostly to defend allies that can certainly afford to pay for their own defense rather than soaking US taxpayers to the tune of $100 billion a year.

No, we are not "undertaxed," as George Will and other statists would have it. We are simply being spent into bankruptcy by politicians who've forgotten that it's *our* money they are handing out. Fortunately, the American people are way ahead of their leaders on this issue. A December Gallup poll showed overwhelming support for reducing the deficit *by cutting spending* (70 percent) rather than by raising taxes (16 percent). It's high time the politicians, and their apologists in academia and the media, got the message.

Robert W. Poole, Jr.

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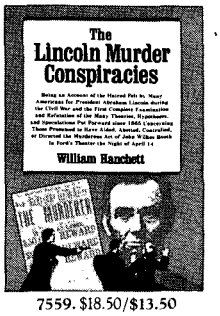

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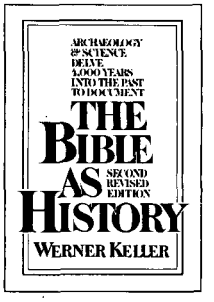

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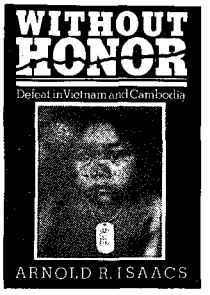

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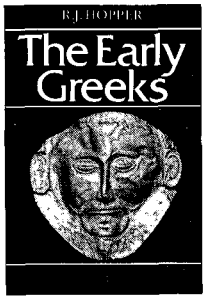

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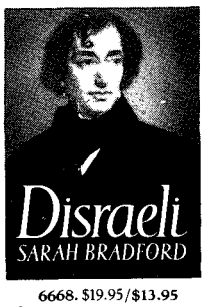

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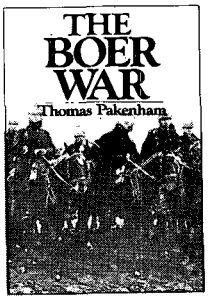

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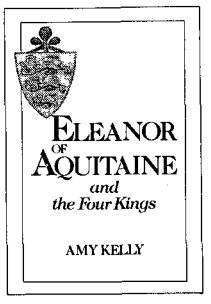

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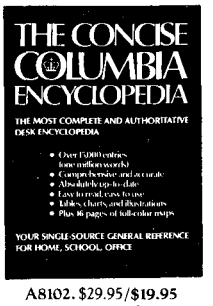
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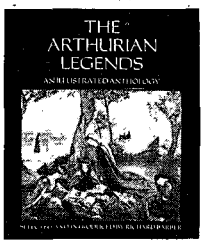

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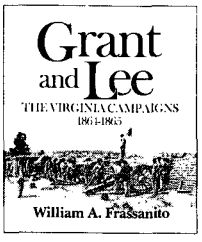

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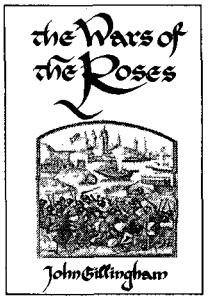

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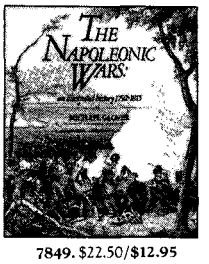

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Letters

Unmasking the New Fascism

I wish to congratulate you on another outstanding book issue (Dec.). I particularly liked Rasmussen's review of George Will's *Statecraft as Soulcraft.* Will is now unmasked as the authoritarian that he is. I am sure that many viewers will take Will's journalistic pronouncements with more skepticism now that we know more about his hidden agenda.

Robert Reich's book about the newest version of economic fascism (*The Next American Frontier*) has brought up a threat to our economic freedom that needs greater investigation. With the Campaign for Economic Democracy and the unanimity among Democratic presidential candidates, I hope that REASON will devote more energy to unmasking this threat. I am sure that whichever Demo-clone is nominated, the media will soon be bombarded with propaganda in favor of this new fascism.

Steven Vandervelde
Columbia, SC

Putting Money On the Market

Steve Beckner (Money, Dec.) argues that the dollar is "overvalued" by 30 percent, but past money growth will eventually be inflationary "regardless of what happens to velocity." That is, the dollar is too valuable, and there are too many of these valuable dollars. As a result, he concludes that monetarists are right, and the foreign-exchange and commodity markets are wrong. Having observed the forecasts of both monetarists and markets over the years, it seems rather risky to bet against the markets.

The value of any "supply" of fiat money is essentially a matter of opinion. If confidence in dollars again deteriorates, then we will observe a speculative flight out of dollars and into gold. In that case, the Fed should tighten, but not simply because of an economist's forecast.

The nominal increase in gross federal debt (the "deficit") is a common symptom of unpredictable money but obviously does not by itself determine the markets' perception of the value of the "money supply."

Alan Reynolds
Polyconomics, Inc.
Morristown, NJ

Buying Immigrants' Votes

I wonder if Julian Simon (Spotlight, Jan.), whose works I haven't yet read, considers the effects of immigration on foreign aid and intervention? For example, our costs of supporting and defending Israel are becoming astronomical, may, indeed, result in nuclear holocaust, and are clearly and directly the result of politicians buying the Jewish vote to sustain themselves in office.

Horace D. McCowan, Jr.
Richmond, VA

Flying Through More Hot Air

I have just finished reading "Flying Through Hot Air" (Editorial, Dec.), and find myself in 100 percent agreement with the facts and conclusions it presents.

I am taking the liberty of making copies of that editorial and will send one to Henry A. Duffy, president of the Air Line Pilots Association, and post the rest on various ALPA bulletin boards throughout United Air Lines' domiciles. I think the propaganda being put out by ALPA these last few months, which is nothing less than a wholesale assault on the concept of a free marketplace, needs to be countered whenever possible and exposed for the collection of lies and distortions that it really is....

Robert J. Boser
Pilot, United Air Lines
Hermosa Beach, CA

Socialists in Capitalists' Clothing

Readers should treat with great caution Arthur Seldon's extraordinary presentation of Britain's Social Democratic Party as an emerging "market oriented" force in British politics ("God Save the Market!" Oct.). There is a world of difference between the SDP as a party committed (as it is) to an efficient and competitive private sector *within the confines of the mixed-economy welfare state* and as a party group with a bona fide commitment to a free-market economy.

While Seldon is right to point up divisions within the SDP leadership on the paternalism-individualism spectrum, he is wrong to seek to present Roy Jenkins, David Owen, Shirley Williams, and William Rodgers as former socialists who have turned their backs on their Labour Party past. Indeed, to cite two examples: Shirley Williams reiterated a year after the creation of the SDP that the Labour Manifestos of 1970, 1974, and 1979 presented "aims and policies" she believed in and that the SDP "are the inheritors of the old Labour Party" (*Daily Telegraph*, November 25, 1982); David Owen, in a November 1980 BBC radio interview at the time when the SDP was being formed, in response to the question, "Do you call yourself a socialist?" said, "Yes, I do."

While the SDP has effectively repudiated the present Labour Party commitment to a full-blooded command economy, their commitment to a statist approach nonetheless remains. It is indeed highly desirable for Britain to have more than one party committed to a competitive free-enterprise economy, but such a desire should not blind us to the reality of the SDP approach. This new party does indeed seek a healthy private sector, but only within the framework of a largely statist economy. As Mr. Jo Grimond, the former leader of the Liberal Party, reminded us in October 1981: "The Liberal-Social Democratic Alliance...looks too much like a half-way house on the old road of state socialism."

Michael Turner
Linwood, Scotland

I'm Ready to Deal— If the Politicians Are

I'm an elderly retired Social Security recipient, paid in from square one. I'm not mad at Jim Davidson for his remarks in "Weep Not for the Wizened" (Viewpoint, Oct.). Someone should speak out. I feel the elected politicians of the '30s

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made a contract with us which we accepted in ignorance and good faith. I would be more than happy to give mine up, contingent upon being rewarded with balanced budgets and a hard-money sound currency.

My greatest fear is that my savings for old age will melt to nothing while my wife and I are still alive and helpless. I'd be interested in knowing how many other SS recipients would agree to this. The elderly indigent would, of course, continue on the payroll.

Daniel T. Connolly
Hollister, CA

Turning Train Tracks Into Toll Roads?

Reviewer Peter Samuel ("Derailing the Regulators," Jan., p. 62) gives short shrift to the idea of turning the railroads into toll roads, possibly because author Daniel Overbey proposes having government do the job.

Overbey's concept has been discussed for years within the railroad industry and was last seriously proposed as an alternative to "passing lanes," and the different "users" have seriously conflicting needs. Some trains run on fast, rigid schedules while others can barely crawl. Managing these schedule conflicts is a sensitive job, which the most progressive railroads now entrust to computer-aided dispatchers whose jobs resemble air traffic controllers'. One cannot entrust this management, at either a policy or practical level, to government's hamfisted approach.

But Samuel's review would have done a far better job of indicating the economic benefits of railroad deregulation if he had only asked whether private initiative will bring about railroad toll roads. Arrangements for the joint use of track have been in use for decades and, strangely, are virtually unregulated where they are voluntary.

Deregulation of railroads' right to abandon their own trackage has led to a real upsurge in new and proposed joint-use contracts in recent years, and deregulation of railroad-shipper contracts has led to greater implementation of trains owned by shippers or third parties and merely hauled as a unit by railroad crews.

I think the industry's attitude is one of opposition to government intervention, even when tied to proposed federal "rail trust funds." Yet a great many railroad people harbor a belief that substantial economic open access to railroad routes will come in time with the substitution of deregulated, innovative marketing for the old common-carrier concept of "all things to all customers."

William D. Burt
Greenwich, CT

The Data of Conquest

Before the fantastic idea that "an estimated 250 million people have been murdered in the Soviet Union" ("You Can't Have Marx Without Stalin," by Tibor Machan, Oct.) becomes part of the received faith, the record should be set straight. In reply to a reader's puzzled inquiry in the January issue, Tibor Machan repeats his claim, mentioning as his authority for that figure the historian Robert Conquest. For some reason, he does not cite any book or page, however.

Conquest is indeed a noted scholar of Soviet history. In his excellent *The Great Terror: Stalin's Purge of the Thirties* (Macmillan, 1968), he does the calculation Professor Machan is evidently referring to. In his "Appendix A: Casualty Figures," on page 533, Conquest writes: "Thus we get a figure of 20 million dead, which is almost certainly too low and might require an increase of 50 per cent or so, as the debit balance of the Stalin regime for twenty-three years." That would cover the years 1930 to 1953, which include the collectivization, the purges, and the heyday of the Gulag.

Where does Professor Machan suggest that the other 230 or so million murders—the equivalent of an Auschwitz *a year for each of 66 years*—are to be found? And if his authority is Robert Conquest, what is the book and page?

Ralph Raico
State University College
Buffalo, NY

Mr. Machan replies: When I received the letter to the editor to which I replied in the January issue, I was in Switzerland for an extended period and had no access to Conquest's *The Great Terror.* My recollection was that when I learned of his figures and estimates, I checked them out thoroughly to see whether they were plausible and came to the conclusion that they were. But the figure I checked out was not 250 but 25 million. As I considered the 250-million figure from memory, I had in mind the entire Sino-Soviet sphere; and if one keeps in mind the various wars, labor camps, purges, etc., within that sphere, that

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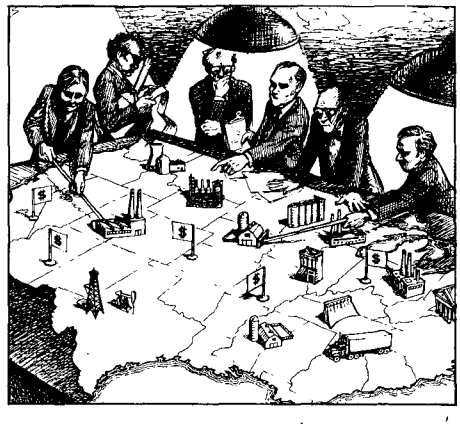

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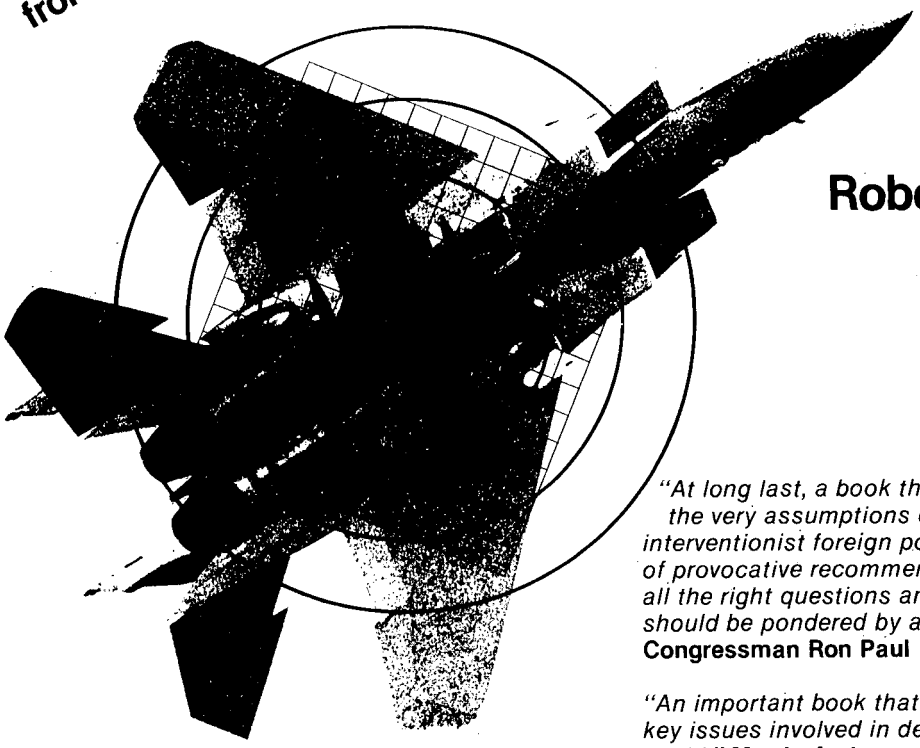

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figure no longer seems too out of the question. Nevertheless, my original article did use the figure 250 million for the Soviet Union *alone*, and that was wrong (as based on Conquest's estimate).

Frankly, however, nothing in my essay hinged a great deal on whether 25 or 250 million human beings have been murdered in the name of Marxism/Leninism, and I still cannot convince myself that the difference is significant *for purposes of understanding so many intellectuals' enduring attraction*, at least in the abstract, to a system with such results. I apologize, though, for having misled anyone concerning the precise historical data.

Religion and Rationality

A comment on Jerome Tuccille's review of Isaac Asimov's *The Roving Mind* (Dec.): I agree with Asimov when he says, "To surrender to ignorance and call it God has always been premature...." However, once that point is made, I suspect many reasonable people would agree that not *all* of religious belief is deified ignorance, nor is every religious decision premature.

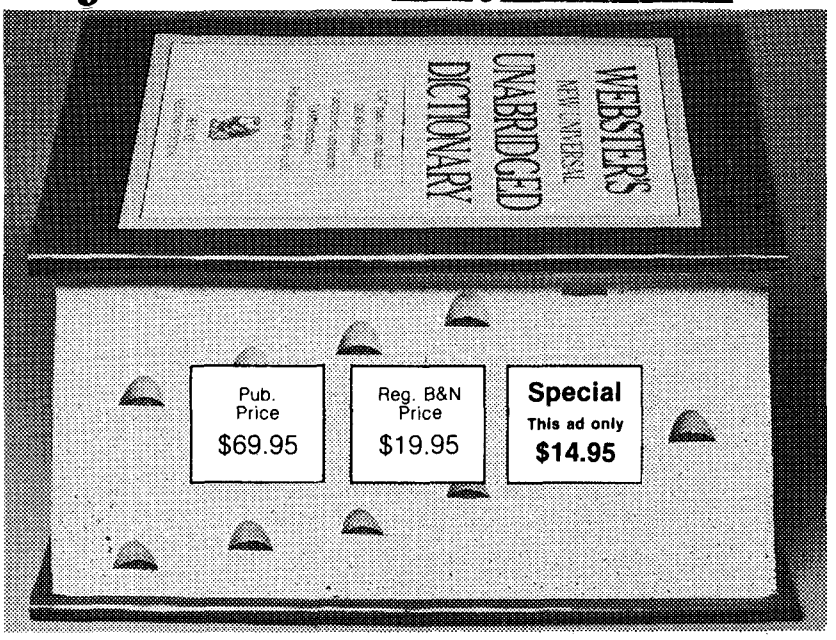
As C. S. Lewis notes, atheistic materialism is vulnerable, too: if there is no creator and everything is only accidental, then the comments of an atheist, from their roots up, can claim only accidental resemblances to meaning. Why believe anyone who begins by saying, "I am really meaningless, but I am rational and correct!"

"The fear of the Lord is the beginning of wisdom." It is also a good counterbalance to minds that are brilliant but would seek to "impose Draconian controls over just about everything" aside from themselves, as Tuccille suggests of Asimov. If we feel there is no God, we might be tempted to suspect we are the highest authority of any kind and might excessively impose our ideas, good and bad, on others as a misguided public service—or in simple egotism. It should be noted that religion sometimes makes a similar mistake. Reason and religion should remain in friendly association—alone they may become heartless or brainless.

As a Christian, I hope that more people will exercise both reason *and* faith, saying, "I have the Word of God, but I may be in error on occasion and must act thoughtfully and after considering other viewpoints."

George Anderson
Minneapolis, MN

The price of looking it up just went *way down!*



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brickbats

Tough toenails! The Health Care Financing Administration is callously clipping the taxpayer of $45 million a year by allowing Medicare to foot the bill when podiatrists cut toenails, according to Sen. William Proxmire (D-Wis.). For patients who have a fungus infection around the toenail, Medicare pays about $90 million a year for a procedure called debridement of mycotic toenails. But government studies show that some podiatrists have been rather footloose in their diagnosis of the symptoms. After all, Medicare won't pay for routine toenail clipping, only infected toenail clipping. HFCA has refused to implement any reforms, and the footdragging is making Proxmire angry. "These bureaucrats gave the podiatrists an inch, but they took a foot," he says.

It's just like Mom always told us: Look, but don't touch. Boston stripper "Chesty" Morgan has no constitutional right to allow bar patrons to touch her 73-inch bosom to prove that her chest is real. Massachusetts Appeals Court Judge Alan Hale denied the stripper's plea for an injunction against a city ordinance forbidding her to circulate barechested among the customers at Alex's Lounge. The bar's liquor license had been suspended for five days because Chesty violated the ordinance. Hale says that by forcing the stripper to not allow patrons to touch her chest while she bumps and grinds her way through the crowd, the law does not infringe on Morgan's First Amendment rights.

What's a schoolmarm to do when the smack of a ruler across the knuckles won't do the trick? Nancy Eggert, a Williamsburg, Iowa, educator who smeared cow manure on the faces of two fifth-graders, says the punishment was a last-ditch attempt to force the pupils to do their homework. She stopped the unique behavior-modification program after the kids' parents smelled something, er, fishy, and decided to raise a stink with the school board. We shudder to think what might have happened if the kids played hooky.

Are the six giant steel and urethane mechanical frogs that dance and play musical instruments atop a popular Dallas nightclub objects of art or merely crass commercialism? It's a ribbeting question, and so far the frogs are losing. The city's Sign Control Board of Adjustment ruled that the frogs constitute a sign and thus jump all over a Dallas ordinance banning rooftop signs. Nightclub owner Shannon Wynne offered testimony from leading museum officials, but to no avail. A majority of the board was swayed by the "gorilla issue," raised by board member Rick Illes. "I have nothing against frogs personally," he says. "But if we agree to this, there's nothing to stop the local supermarket from putting a 25-foot gorilla with two heads of lettuce in his hands, and calling that art too." Isn't it reassuring to know that Dallas officials are hard at work on the compelling problems of municipalities?

It really pays to buckle up, especially in Natchitoches, Louisiana. Uncle Sam is spending $82,000 in the bayou town to find out if bribery will encourage motorists to wear seat belts. The money will be spent to hire people to stand at the town's 23 traffic lights and pass out prizes, including McDonald's restaurant gift certificates, to those who are properly strapped in. By the way, Natchitoches didn't have a single traffic death last year—before the grant program started.

Suzan Reboulet ran into some unforeseen trouble in her quest to secure a business permit as a clairvoyant in Monticello, Kentucky. The local clergy has denounced her as a witch, and one minister even cited biblical justification for burning her. Mrs. Reboulet says she's no witch, just an honest seer who uses her psychic powers to counsel her clients. "I never expected accusations of this nature," she says. She may be able to predict the future, but her crystal ball was a little cloudy this time.

Sauntering is against the law in Garden City, Kansas. During a heated debate on the hamlet's loitering ordinance, one wise guy piped up that even John Wayne sauntered. "Don't walk like John Wayne, then," shot back City Commissioner Frank Schmale. The trouble started when the commission wanted to make city ordinances more specific. The loitering ordinance, which was left unchanged, reads: "Loitering shall mean remaining idle in essentially one location and shall include the concept of spending time idly; to be dilatory; to linger; to stay; to saunter; to stand around and shall also include the colloquial expression 'hanging around.' " The ordinance against spitting also was left unchanged. "Sidewalks don't bother me so much," said Schmale. "But if somebody just wants to stand around and spit on a building like City Hall, I think we ought to nail him." But what else is there to do in Garden City?

—MARK EDWARD CRANE

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Would you like to earn an extra $60... $125... $300... each week, doing interesting work right in your own home—*part time?*

You can—in the newspaper clipping business! You need no experience. No special skill. And two hours after you receive your complete instruction manual, you could start making money in your own home business, just like hundreds of others!

Yes, all you need to get started is a pair of scissors, a place to read your local paper, and our help and "know-how."

BECAUSE NEWSPAPER CLIPPINGS ARE DESPERATELY NEEDED!

In the United States alone, there are over 7,568 business and professional journals. These magazines report news of specific industries, such as building news, automobile news, and retailing news.

Some of these magazines have huge news staffs to cover the country. But *most* cannot afford such an expense. So, they must depend on people like yourself to supply them with these vital news items, clipped out from local newspapers.

And this is your *Golden Opportunity.* You read your local paper. You cut out those items these publications need and pay for, exactly as our instructions tell you. Then you lean back and rake in the checks that come by return mail!

Some clippings bring only $1.00, but most bring $2.00 to $5.00 each; others bring $10, $25...even $50.

YOU SEE THEM IN YOUR PAPER EVERY DAY. NOW YOU CAN CASH IN ON THEM!

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*And...*we give you the *PROFESSIONAL CLIPPING SECRET* that can *double* or *triple* your money from each item!

The task of preparing this manual took *months of research*—a huge amount of investigating and correspondence. This is its 15th edition. You get the most complete, up-to-date information. You get the exact methods to achieve success in your own clipping service ...in your own home...in your spare time!

Everthing—all our inside "tricks of the trade"—is here at your fingertips. And every word is written down for you in plain English, with step-by-step, easy to follow instructions.

BUT THERE'S MORE!

Because you get a *complete up-to-date directory* of publications buying clippings.

For each magazine we tell you exactly what news items the editor needs and pays for. We show you which editor pays the highest rates for which news. *We give you a complete list of names, addresses and editor's names and tell you just what each one wants.* This list is so complete that it virtually *guarantees* your success.

BUT YOU GET MUCH MORE!

- You learn how to multiply your newspaper profits as much as a hundred times! You learn how to get all the newspapers you want . . . completely FREE. You *pay nothing* for them.
- The section on how to "syndicate" yourself is worth the whole cost of the book. You learn how to sell a short article, that you yourself write once a week, to hundreds of newspapers. Imagine the public recognition. And the earnings!
- You learn how, by changing a few words in a brief newspaper item, you can make it worth $10, $20 or more. You *don't* need writing experience to do it.
- You learn how to make fantastic profits clipping items for individuals. For example, if your paper prints information about local weddings, such items can be worth as much as $5 to $7 each! And that's just *one* type of personal item that can bring you money.

8 REASONS WHY YOUR NEWSPAPER CLIPPING BUSINESS CAN BRING YOU STEADY AND INCREASING PROFITS

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- NO WORRIES ABOUT CUT-THROAT COMPETITION—Your business comes from men and women who buy your clippings hundreds or thousands of miles away. And the big clipping companies cannot profitably cover the newspapers you do—so the field is clear.
- PAST EXPERIENCE NOT IMPORTANT—The book *HOW TO MAKE MONEY CLIPPING NEWSPAPER ITEMS* explains every step carefully and clearly. Nothing is left to chance.
- AGE, LOCATION NO MATTER—You can be in your seventies or your teens. Neither age nor where you live has a bearing on your success in clipping.
- NO "FACE TO FACE" SELLING—You do all your selling by mail. Send out the clippings by mail, get checks by mail. No personal selling to do, no visitors to waste your time.
- START FROM HOME—Your "office" can be in your basement, garage, shed or even on the kitchen table. All you need is a place to clip the newspapers. Don't waste money on fancy fixtures.
- YOU CALL THE TURN ON YOUR HOURS—Devote spare hours to your clipping business. Keep your regular job and income while getting started.

HOW MUCH CAN I EARN BY CLIPPING NEWSPAPERS?

The average news clipping brings $2.00 to $5.00. Clip just three items a day from your paper and you can earn $50 a week. If you want to make more money, you can clip two or three papers or more. (A little figuring will show you just how *fantastic* clipping newspapers can be!)

And the beauty of it is...you can do it right in your own home, at hours to suit yourself, without giving up job, paycheck or anything else. *There is no risk.*

I don't care if you're a housewife, a mechanic, a clerk or retired; whether you're young or old; whether you are a student, a mother or father, or a grandparent. *Within two hours after you receive your manual you can start your own money-making clipping service.*

Clipping news items is one of the most interesting businesses you could imagine. As a one-person business that can be started with a couple of dollars and a pair of scissors, it has no equal. It's uncrowded. *There's almost no competition.*

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TRENDS

NEXT STOP, SOUTH SUCCOTASH!

One of the most enduring arguments made against intercity bus deregulation is that without government interference, bus companies will serve only the lucrative routes between major cities, leaving rural areas without service. Enduring as that argument may be, there is more and more evidence that it is false.

In mid-December, syndicated consumer columnist Peter Weaver discussed the results of bus deregulation. "While it is true that deregulation has allowed the big operators, such as Greyhound and Trailways, to pull out of many small towns," he noted, "it is also true that the way is now open for small operators to move in."

And moving in, they are. When the large bus companies ended service in several small Nebraska towns last year, the Denver Coach Company of Scottsbluff, Nebraska, started serving a 400-mile route from Gering, Nebraska, to Denver—using vans instead of buses. And when Trailways terminated service to Williamsport, Pennsylvania, the Fullington Auto Bus Company began service from that town to Cleveland and Washington, with stops in small towns along the way.

The fundamental fallacy underlying the worry that "high-cost" rural areas will be left without service is the idea that the costs of products and services are fixed. But, as emphasized by the Austrian School of economics, costs are *not* fixed. In a relatively free market, where entrepreneurs have a natural incentive to employ ingenuity and common sense to lower costs, there's no way of predicting exactly what effect this creativity will have in expanding services or lowering prices.

Examples of this principle abound in the market in bus services. Instead of using large, uneconomical buses, for example, many small companies are using vans. As a spokesperson for Fullington told Weaver, "We can use smaller buses and, of course, have much smaller operating costs...all of which allows us to make money where the big company could not."

Yet another example is Trans State Trailways of Larned, Kansas, which operates with a fleet of vans and a station wagon. On one of its routes, the cost of service for Trans State is roughly 53 cents per mile, compared to approximately $1.75 per mile for Trailways.

Trans State first started operating buses in 1975, but owner C. M. Phinney, Jr., told *Kansas Business News* that it was only with the advent of intercity bus deregulation in 1982 that his company finally had a chance to build a viable regional bus system. The firm is relying on smaller buses, improved schedules, and reliable connections with major bus lines—analogous to the commuter airlines that have sprung up since airline deregulation—as a formula for success. Trans State revenues, $148,000 in fiscal year 1982, were expected to rise to $600,000 in fiscal year 1983.

In addition to companies such as Denver Coach, Fullington, and Trans State, deregulation has spawned a vast increase in inexpensive charter and package-tour services. "It's a lot easier now—no red tape," notes consumer columnist Weaver. For many older travelers especially, the door-to-door service, baggage handling, meals, hotel rooms, and sightseeing provided by package tours are ideal.

As Weaver writes of intercity bus deregulation, "Of course, there will be disruption of available transportation in some small cities and towns as the big companies move out. But, in most cases, some enterprising new business will pop up to fill the void." Such are the workings of the free market, widespread fears to the contrary notwithstanding.

TOWARD SANITY IN CRIMINAL LAW

A just legal system should incorporate the principle of individuals' responsibility for their own actions. But in recent years, the insanity defense in criminal trials has been expanded to such an extent that, according to many critics, it is too easily available to the accused, undermining the principle of individual responsibility. Now, it appears that the prospects for serious reform are growing.

An important sign of this came in December when the powerful American Medical Association for the first time went on record against use of the insanity defense in criminal trials. The AMA recommended that it be abolished and replaced with new laws "providing for acquittal when the defendant, as a result of mental disease or defect, lacked the state of mind (mens rea) required as an element of the offense charged." *Mens rea* is the legal term for "intent." The AMA's recommendation is thus that judgments of guilt be based on the defendants' intent to perform the criminal action, not on the defendants' sanity.

An AMA attorney told *Science* magazine that the organization took that position because insanity defense trials often degenerate into "three-ring circuses" with psychiatric experts battling one another. The attorney said that the AMA's proposed standard is designed to "take the medical decisions out of the courtroom."

The AMA is not alone in reacting to widely publicized uses of the insanity defense. Montana, Idaho, and Utah have abolished the insanity defense altogether. In addition, about 12 other states have adopted a "guilty but mentally ill" verdict, but *Science* reports that the results of this have been mixed. "A plea of mentally ill appears to have become a new plea bargaining tool for individuals, such as sex offenders, who would never get away with an insanity plea," says the magazine.

Meanwhile, the American Psychiatric Association and the American Bar Association have reached agreement on reforming the definition of insanity. Since the 1950s, the test of insanity has had two elements. The first has been a cognitive element, that the defendant not understand the nature of his act and that it was wrong. The two professional groups would keep that essentially intact. They hold that a person is "not responsible" if "as a result of mental disease or defect that person was unable to appreciate the wrongfulness of such conduct."

But the second part of the test has been a volitional element, which requires a determination that the defendant acted on an "irresistible impulse." The APA and ABA suggest that this standard should be eliminated. The psychiatrists' organization said in a statement two years ago, "The line between an irresistible impulse and an impulse not resisted is probably no sharper than that between twilight and dusk."

The ABA and APA contend that the problem of the insanity defense is actually not large. They point out that insanity is pleaded in fewer than 1 percent of felony cases and is the basis of verdicts in 0.1 percent of the total.

Even so, cases such as the trial of John Hinckley, Jr., who was found not guilty by reason of insanity of the attempted assassination of President Reagan, indicate that the need for reform exists. And reform may finally be in the cards.

A MATTER OF TRUST

In the last few years, free-market advocates have seen the substantial deregulation of several industries. Now, they are making the case that full deregulation should include freedom from the antitrust laws, as well.

This is not a new issue for the trucking industry. Starting in the late 1940s, as a quid pro quo for being regulated, the industry enjoyed antitrust immunity, whereby truckers could negotiate collective rate agreements through regional rate bureaus. With partial deregulation in 1980, that immunity was reduced. Now, the ICC is considering a petition to withdraw antitrust immunity involving small shipments in the trucking industry, and the Transportation Department and Sen. Robert Packwood (R-Ore.) want to end collective rate making by doing away with truckers' antitrust immunity completely.

This proposal is being contested, however, by organizations such as the Council for a Competitive Economy. Testifying before a Senate committee in November, CCE official Fred Smith dryly observed, "It may appear strange for the Council, a free market group, to suggest that the antitrust laws should not be extended to the trucking industry. After all, the conventional wisdom has been that antitrust laws promote competition." But "the risks of loosing the Department of Justice on the trucking industry. . . are great. Antitrusters have seen conspiracy in almost every normal business practice—a wink of the eye is sufficient to infer anticompetitive behavior. Moreover, the Justice Department by necessity will be highly arbitrary in deciding which cases to try."

Subjecting the industry to antitrust laws, Smith noted, would provide the opportunity for some firms to use the laws, instead of better service or lower prices, against competitors. He quoted antitrust attorney James Calderwood's observation that already "some motor carriers are having difficulty adjusting to this more competitive business environment [since partial deregulation]. They appear to be the ones who are initiating the antitrust suits as they see their traditional customers utilize rival motor carriers and their normal markets become saturated with newly certified competitors."

If full antitrust immunity were restored, would the old regional rate bureaus continue to set shipping rates? Probably so, but "in the absence of Interstate Commerce Commission *enforcement* [that existed under the old arrangement]," said Smith, "the suggested rate bureau price is merely a list price. Individual firms have every incentive to consider discounts as appropriate. To argue that a uniform list price is equivalent to a uniform market price is naive. The history of efforts legal and illegal to fix prices has revealed few cases where

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prices were in fact 'fixed.' "

Soon after Smith's testimony, economist and REASON contributor Dom Armentano presented the case in the *Wall Street Journal* for permitting voluntary price agreements in the air-carrier industry, now illegal because of the Sherman Antitrust Act. He noted that air carriers "are at liberty to engage in price competition that can lead to bankruptcy, but they are not free to attempt to stabilize rates through voluntary agreements."

He suggested that fears of monopoly are groundless for several reasons: in open, unregulated markets, not every supplier will necessarily want to participate in voluntary price agreements; they aren't legally enforceable even on the firms that *do* participate; and the threat of potential competitors would keep prices down. "I maintain," concluded Armentano, "that we ought to let the open market, and not the government or the courts, decide the appropriate amount of competition."

The point for the air-carrier industry is as sound for the trucking industry—and, for that matter, all economic activity. And if this staunchly free-market position is tested in the newly deregulated industries, it may be the opening wedge in a rethinking of the antitrust laws.

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REAL DEFENSE ON THE OFFENSIVE

Support for building defenses against nuclear attack—both earth-based and space-based—continues to grow. Strongly confirming the technical feasibility of such defense are recent reports by the Defensive Technologies Study group and the Future Security Strategy group. Both consisted of top-level defense scientists appointed by the president last April. According to articles this winter in *Aviation Week* and *Science*, both panels have concluded that there are no invincible technical obstacles to creation of effective defensive systems.

One of the major conclusions of the first group, headed by former NASA administrator James C. Fletcher, is that a defensive system must consist of several layers, going after enemy missiles at each stage of flight—boost, postboost, midcourse, and reentry. Of these, the boost phase is of greatest importance, for two reasons. The missile is most vulnerable during that phase and, perhaps more important, as Fletcher has noted, "for every booster killed, the number of objects to be handled by the remaining elements in a layered system is reduced by 10 to 100 or more." (Most Soviet missiles are armed with multiple warheads and decoys, which do not separate from their "bus" until the midcourse phase.)

A layered system, with each layer employing a different type of technology, greatly increases the overall success-rate of the system in stopping warheads. Even if each layer of a three-layer system is only 90 percent effective (that is, lets 10 percent of its targets get through to the next layer), then a system with three layers will have a "leakage" of just 0.1 percent—only one out of 1,000 will get through.

But the study panels' reports have also come under criticism from advocates of true defense. Their concern is that the focus of the recommendations is on high-tech, long-term technologies such as lasers, particle beams, and hypervelocity railguns. By calling only for 20 years' worth of expensive R&D on such systems, the panels seem to be accepting a continued reliance on defense-by-retaliation for two more decades, in contrast to the

premise of President Reagan's "Star Wars" speech. That speech argued for repudiation of the morally odious doctrine of Mutual Assured Destruction (MAD), whereby the only real defense is the threat to destroy the other side's society by massive nuclear retaliation.

Writing in the *Wall Street Journal* last December, Gregory Fossedal pointed out that two *other* types of defensive systems are ready for immediate development: (1) ground-based systems using small nonnuclear rockets or projectiles for defense against warheads in their terminal phase and (2) low-tech space-based systems using heat-seeking missiles that could attack ICBMs (intercontinental ballistic missiles) in their boost and postboost phases (such as that proposed by the High Frontier project).

Also faulting the Defense Department for continuing reliance on MAD was defense consultant C. Richard Whelan. In a Heritage Foundation report, Whelan called for making a clean break with the MAD doctrine by establishing a fourth branch of the military, the US Space Force. Its mission would be to protect US satellites and destroy attacking enemy missiles. Importantly, the Space Force would be equipped *only* with defensive weapons. Calling MAD "a morally corrupt concept," Heritage vice-president Burton Pines stated, "It is time for the American government to recognize that it has a responsibility to defend its people without making them hostages to nuclear holocaust. Then the U.S. can start thinking about building weapons of mass protection, not mass destruction."

CONSUMER ACTIVISTS, MEET PRIVATIZATION

Several recent developments in the privatization of public services are worth noting.

Last fall, Houston's chamber of commerce recommended to the city council that the city's municipal garbage-collection operation be turned over to the private sector. The savings, the chamber estimates, would be about 40 percent.

Though a Columbia University study has shown that on average private garbage collectors have costs 29 percent lower than do municipal collectors, the chamber concluded that because Houston's operation is especially inefficient, the savings there from privatization would be greater than average. Houston's garbage trucks last only five years, for instance, while the average lifetime is seven years. Moreover, the city's Solid Waste Department employees have an accident rate about double the national average. And while private garbage collectors use an average of 2.1 employees per truck, Houston uses three.

Currently, although Houston's Solid Waste Department picks up garbage at only 42 percent of the city's residences, the service is paid for out of the city's general funds—users do not pay a fee for the service. The chamber has calculated that it costs the city $10 per household per month to provide the service, whereas private haulers could do it for $6.

The chamber's proposed plan is to institute user fees immediately and then to phase in private garbage collection over a two-year period. Anticipating resistance from the 1,000 Solid Waste Department employees, the chamber cited the recent example of Oklahoma City's garbage-collection privatization. There, not a single employee lost his job. The chamber suggests that the two-year phase-in period would avoid employee displacement by allowing time for some employees to retire, others to fill vacancies in other city jobs, and still others to get jobs with the private firms taking over operation of the service.

In Cincinnati, meanwhile, the city council voted in late December to implement, for the first time, a user fee for the city's ambulance service. In addition, the transit authority has agreed to allow a pilot program for private jitneys (fixed-route taxis) in several Cincinnati neighborhoods and to consider a proposal to allow shared-ride taxis in the city.

Moreover, Cincinnati citizen Greg Newberry reports widespread support for his efforts to establish a privately funded privatization commission that would study and propose to city council specific privatization plans. Among those who have expressed interest are the city's mayor and city manager, the chamber of commerce, and the Cincinnati Business Council (a group of 24 of the area's major corporations).

The idea of privatization in general has been supported by *Cincinnati Enquirer* editorialist Robert Clerc, who has suggested in that newspaper that the privatization proposals of city council member Peter Strauss be given a chance. Among Strauss's specific proposals: the sale or lease to private firms of nearly all municipal parking garages, and contracting out the management of two municipal airports, city-garage services, and management and promotion of River-

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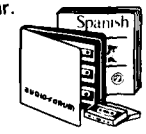

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The last bit of news comes from Michigan. There, the state Department of Transportation has reported dramatically improved service and cost savings of $500,000 a year by having hired a private company, instead of using the city of Detroit, to maintain 5,000 freeway lights in the Detroit area. Writing in the consumer-affairs "Action!" column of the *Detroit Free Press*, Bill Laitner reported that nearly 30 percent of those 5,000 lights were out while the city had been responsible for their maintenance; today, that figure is down to 1 percent.

What is particularly encouraging about this last item is that privatization, albeit in a small way, is beginning to be recognized as the *consumer* issue that it is. And that is a welcome state of affairs indeed.

THE MARKET RESUSCITATES

A common argument for government involvement in the medical marketplace is that this market is immune from the laws of supply and demand—even as the supply of health care increases, the argument goes, prices don't come down. But a rapidly increasing supply of doctors—up by 30.5 percent since 1975 and expected to continue rising at that pace for at least the next decade—is, in fact, infusing greater competition and cost consciousness into the health-care industry. The resulting benefits to consumers are multifold.

According to a recent study by the National Center for Policy Analysis, a Dallas-based think tank, the competition ensuing from the expanding doctor supply is encouraging more and more younger physicians to practice in underserved inner-city and rural areas. Reporting on the study in a *Wall Street Journal* op-ed piece, NCPA public affairs director Becci Breining noted, for example, that only a quarter of Arkansas's counties now consider themselves medically underserved, whereas three-quarters did only three years ago.

More-convenient service is another aspect of a general trend toward more consumer-oriented health care; hence the emergence of various walk-in medical facilities, such as free-standing emergency (or "urgent care") centers, ambulatory surgical centers, and primary-care centers. The number of such clinics nationwide is now estimated at about 1,350, and they are increasing at a healthy pace. For instance, the number of urgent care centers—conveniently located facilities, typically open long hours and on weekends, where people can come in without an appointment—is now at 1,000 or so and is expected to double by year's end.

The emergence of such facilities is already having a competitive effect on conventional private practices. The American Medical Association reports that significant numbers of physicians are making more house calls, keeping their offices open longer, using more lower-cost nondoctor employees, and marketing their services more aggressively—all to the consumer's benefit.

And, just as in any other market, the increased competition in health care is forcing suppliers to become more cost-conscious and to lower prices. The walk-in clinics mentioned above, for example, generally charge less than do the standard alternatives—conventional private practices and hospital emergency-room or in-patient service. For instance, for the treatment of a broken arm, an emergency-care center charges on average 55 percent less than a hospital

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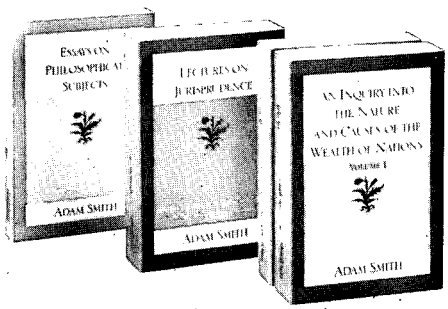
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emergency room, according to a study by the National Association of Freestanding Emergency Centers.

Another example of price cutting is the emergence and growth of "preferred provider organizations" (PPOs), groups of doctors who contract with firms or their medical insurers to treat the firms' employees at discounted rates. According to a November *Wall Street Journal* report, "practically every major city has at least one PPO-like operation or will have one soon." For a monthly per-employee fee, a PPO will provide discounted, comprehensive medical treatment to employees, and typically, the employee pays nothing out of pocket. Thus, PPOs not only are popular with employers (who stand to significantly reduce—or contain—their employee-benefit costs), but the no-copayment feature also is attractive to employees. At one Cleveland company where employees were given a PPO option last summer, the *Journal* reported, 20 percent of them have since switched to the new plan.

The same sort of price competition—coupled with the federal government's and many insurance companies' stricter limits on medical reimbursements—also is forcing hospitals to cut their costs (see Trends, Oct. 1983, p. 12), and many are trying, for the first time, to determine just what their costs are. The results have often been surprising. For example, according to a December *Wall Street Journal* report, one Dayton, Ohio, hospital discovered that it could reduce its birth-delivery charge from $1,885 to $1,324 and still break even. And a Clearwater, Florida, hospital, the *Journal* reported, found that its surgeons were prescribing $230 of postsurgery antibiotics when $34 worth would have been adequate.

Many physicians and hospitals, disturbed by these reawakened market forces, are agitating for legislation and regulation that would stymie much of the new competition. Ohio authorities have temporarily banned the construction of new emergency centers to give state regulators a chance to devise new rules for these facilities. In Georgia, Rhode Island, and Tennessee, authorities are also itching to regulate the fast-growing walk-in centers, which presently do not fit into the standard regulatory categories.

On the federal level, physicians-group lobbyists are urging legal barriers to foreign-trained doctors practicing in the United States, hoping to cut off at least some of the annual increase in the number of medical providers. Such regulation might for a while ease the competitive heat for the established elements within the health-care field, but it is consumers who will ultimately pay for any such restrictions.

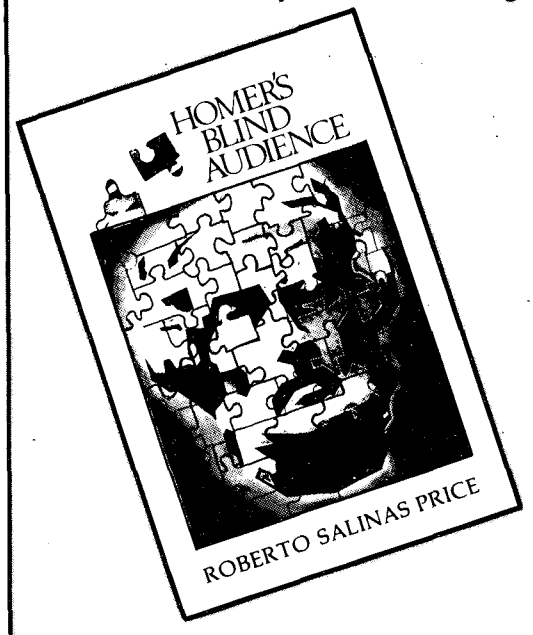
AN EDUCATION ABOUT A SUBSIDY

The typical community college student is a minority youth who works at a low-paying job during the day while attending school at night, right? Wrong—at least in California, the only remaining state with a tuition-free community-college system. There, it turns out, the typical student is a self-supporting, affluent, white woman who is pursuing a hobby or honing a job skill.

This was the finding of a recent study by a California state agency, the Postsecondary Education Commission. The commission discovered that of those students taking less than six credits per semester (about 40 percent of the system's entire 1.3-million enrollment

WAS HOMER FACT OR FICTION?

An essay on the *Iliad's* geographical prerequisites for the site of Ilios.



● The site of Ilios according to the *Iliad's* account.

● The site of Troy according to the Greek tradition.

The author contests the traditional location of King Priam's Troy in Asia Minor where Heinrich Schliemann discovered ruins that answer to the citadel of Ilios. The real Troy, he says, is located in what is now modern Yugoslavia; he offers literary and archaeological evidence to that fact, and argues that Homer's Troy was transferred to Asia Minor by the Greeks for political reasons.

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last year), about 70 percent were white; 60 percent were female; nearly 30 percent had already attended four years of college; about one-fifth had been in graduate school; and two-thirds were self supporting, with average yearly earnings of nearly $29,000.

Of those students taking 6-12 units per semester (accounting for about one-quarter of the system's total enrollment), 62 percent were white; more than half were women; one-tenth had undergraduate degrees; and 40 percent came from families with an annual income of $24,000 or more, while only 6 percent came from families earning $12,000 or less a year.

The demographics of the colleges' full-time students (those taking 12 or more units per semester, accounting for about one-fourth of the total enrollment) were somewhat closer to the conventional image—40.7 percent from racial minorities, 52.2 percent male, less than 4 percent already having college degrees. But even among these students, about 30 percent were self-supporting (with average yearly

GLOBAL TRENDS

HERE COMES THE ZONE

BELGIUM—Enterprise-zone legislation proposed by Reps. Jack Kemp and Robert Garcia may be stalled in the United States, but in Belgium, the government has been empowered to create six enterprise zones. Within these zones—each of 120 acres—the burdens of tax and government regulation of production will be considerably reduced. Most notably, the corporate tax on profits, dividends, interest, and landed property will be suspended for 10 years. And requests for government permits will have to be answered within four weeks.

The idea of enterprise zones has existed in some form since Roman days. Since the founding of the free port of Hamburg in 1880, however, virtually no zones were created in Europe until 1958, when the Irish government created an industrial free zone near Shannon.

In the Irish zone, companies manufacturing for export were given a 20-year holiday from the corporate tax; their employees were freed of the income tax; and customs duties were not imposed on goods for re-export. The Shannon model was so successful that some 23 non-European countries subsequently imitated it.

It was only in 1981 that another European nation, Great Britain, took up the idea again. In that year, the British created 11 enterprise zones and added another 13 the following year. A year later, the Socialist government of France promised to present a bill to parliament to make Marseilles an industrial free port, and in Belgium, the Enterprise Zone Act was published. By 1983, the West German province of Lower Saxony was studying the possibility of establishing a free port and enterprise zone; Communist Hungary had established an enterprise zone for joint ventures between foreign and domestic companies; and Turkey, Yugoslavia, and Tunisia were planning their own enterprise zones.

Belgium's Enterprise Zone Act, providing for six enterprise zones of 120 acres each by mid-1983, was a fine example of how the idea could work. Among its provisions were:

- abolition of seven different taxes on companies, including a 45 percent tax on profits and a 20 percent withholding tax on dividends and interest;
- reduction of government bureaucracy so that investors in the zones would have to deal with only one government agency for obtaining all their state permits;
- reduction of government regulation, including abolition of work permits for foreign managers and researchers, exemption for these employees from the nation's social security law, and freedom for companies to decide whether to hire trainees; and
- the opportunity for companies to seek contractual guarantees from the government that enterprise-zone concessions would not be eliminated.

It was sound legislation to begin with—but the Belgian government made the mistake of submitting it for comment to the European Economic Community, even though the Eurocrats' jurisdiction in the matter was highly questionable, at best. They gutted some of the best features of the legislation by restricting its benefits to companies active in high technology and with fewer than 200 employees. They also made the Belgian government give up its plan for an enterprise zone in Brussels, indicating that zones should be created only in distressed areas. The plan now exists in its scaled-down version.

The British enterprise zones are in some ways more modest than the Belgian plans. For example, while companies in the British zones pay no taxes, they must provide "redundancy pay" (unemployment compensation); and the national government reimburses local governments for lost tax revenues. But the British government made the wise decision of ignoring the EEC bureaucracy. Also, Sir Geoffrey Howe has announced plans for instituting free ports in Britain.

It is clear that enterprise zones are a firm fixture in the European economic terrain. They promise to bring in their wake the prosperity that freer markets provide, if the designs of governmental bureaucrats can be thwarted.

—MICHAEL VAN NOTTEN

COURTING RISK-TAKERS

EUROPE—Last spring, France's Socialist government hurriedly amended a law—which permitted only institutions to manage venture-capital funds—to allow the formation of venture-capital partnerships like those in America. Since passage of the new law, at least 11 groups have requested permission to manage such funds. In addition, a stock market for small companies, the Second Marche (something like the US over-the-counter market), was formed in February 1983 and now trades shares in 36 companies. And about $100

(Continued on p. 22)

earnings of $14,000); 42 percent came from families with yearly earnings of $24,000 or more; and 13.7 percent came from families earning $48,000 or more a year, while only 11.4 percent came from families whose yearly earnings were $12,000 or less.

Since passage of the tax-limiting Proposition 13 in 1978 (which especially squeezed budgets for largely locally funded programs—as the community colleges had been), California's "free" community-college system has been at the center of a fiery debate over how to fund the system. That debate flared up last year when Republican Gov. George Deukmejian proposed an annual tuition fee of $100. By comparison, fees in other states' community-college systems range from $260 per year in Texas to $1,075 in New York (these are 1982-83 figures). Guided by the conventional poverty image of community-college students, many California legislators railed against the governor's proposal. The subsidy-minded legislators prevailed, and no tuition was implemented. (As of 1983, the community-college system represented a $1-billion-plus state expense, the fifth-costliest item in the state's entire budget.)

The commission's study ought to open many eyes and reinitiate discussion of a community-college tuition fee. Moreover, citizens might want to take heed and start searching for other examples of large-scale government subsidization of the affluent. Our guess is that they won't have to look very far.

BINGO WINS PROGRESS FOR INDIANS

Anyone still laboring under the delusion that the joys of capitalism are available only to white Anglo-Saxon Protestants should know about a financial bonanza bringing employment and prosperity to more than 60 of the 290 American Indian tribes in the continental United States. It is high-stakes bingo and poker.

At the Cabazon Indian reservation in Indio, California, for example, as many as 500 players (most of them non-Indian) gather nightly in a large hall to win jackpots up to $13,000—a far cry from the toasters and canned hams awarded by Catholic churches and Veterans of Foreign Wars chapters. And next to the bingo hall, according to the *Los Angeles Times*, is a round-the-clock poker parlor decorated with paintings of ancestral warriors.

"This is just like Las Vegas," observed paleface gambler Jim Bass at the Cabazon bingo hall. "Only this is closer than Las Vegas." But the Cabazon reservation's jackpots are small stuff compared to the minimum of $20,000 given away each night and the new cars given away each week at the Morongo reservation in Riverside County, California.

The *Times* notes that high-stakes Indian bingo started six years ago on a Seminole reservation in Florida. The reservations are able to enter the gambling business because of treaties with the United States that make them legally exempt from state regulations, whose restrictions keep other groups from running high-stakes gambling operations.

The social and economic effects of the bingo industry on the Indians themselves have been very positive. The unemployment rate for the 755,000 Indians living on reservations is estimated to be as high as 75 percent—but on some reservations where bingo has been started, unemployment has been cut in half, according to bingo supporters.

At the Santa Inez Mission reservation near Solvang, California, where management of the gambling operation has been contracted out to a group of Orange County investors called the Associates and where some 40 Indians are on the payroll, tribal business council chairman

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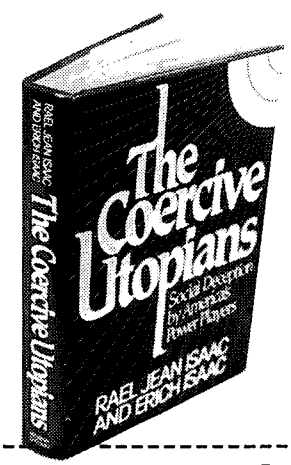

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Ed Olivas told the *Times*, "It's very gratifying to see the members of our tribe getting involved in complicated matters and catching on, taking responsibilities and becoming experts at their particular jobs. It's something they've never had a chance to experiment with before."

Charles Schlegel, an Associates partner, is obviously quite proud of the operation. "We didn't realize how competent our employees would be," he boasted to a *Times* reporter. "I'll put them up against anybody. They're so enthusiastic."

Not everyone is as enthusiastic as the Indians. In eastern San Diego County, Our Lady of Perpetual Help Catholic Church and the Lakeside VFW blame Barona Indian Reservation bingo for taking away much of their business. In Arizona, Atty. Gen. Robert Corbin complains that state government is "left defenseless because we have no court authority to monitor these activities." So what's to monitor? "It's like honey," Corbin explains. "Where you have big money, it's only a matter of time before

GLOBAL TRENDS

(Continued from p. 20)

million in venture capital has already been committed in France, *Fortune* recently reported.

Venture capitalism also is on the rise in the United Kingdom. There, the risk-money action has mounted to about $200 million. London's over-the-counter-like Unlisted Securities Market—operating only since 1980—now trades shares in about 150 companies. (Since 1979, British taxpayers have been permitted to write off against their personal income tax $7,500 worth of investments in unlisted companies.) Moreover, several American-based venture groups have recently set up shop in the island nation, and even the otherwise staid universities are getting into the entrepreneurial act—Cambridge's already-affluent Trinity College, for example, has developed a high-tech industrial park, from which the college now derives 8 percent of its income.

As in France, Sweden's Socialist government also is trying to nurture the Swedish entrepreneur. In November 1982 the Swedes started up an over-the-counter-like market, which now trades shares in about 15 companies. (But in typical Swedish style, the government has gotten into the risk-money business itself, having established a $15-million venture fund, although it is reportedly not as politically exploited as might be expected.)

All these fledging venture-capitalist efforts—both government and private—are aimed at cashing in on the fruit of entrepreneurs. The private venture capitalists, of course, want to realize big returns on their investments, while the governments hope that a surge of entrepreneurialism will revitalize their ailing national economies. The governments are particularly hopeful that entrepreneurial citizens will emulate their American counterparts and produce the high-growth, high-tech firms that have issued from small beginnings (such as Apple Computer and Atari).

A 1982 US government study documented the value of venture capitalism to the US economy. After five years of operation, 72 firms that had started up with $209 million in venture capital had sales of $6 billion, produced $450 million in taxes, created 130,000 jobs, and boosted exports by $900 million. Those results, even socialists can't ignore.

REDUCING THE WEIGHT OF THE STATE

EUROPE—Italy's Socialist prime minister, Bettino Craxi, has proposed abolishing government disability and retirement payments for people above certain income levels. Portugal is quickly denationalizing its state industries. Sweden's Social Democratic prime minister, Olof Palme, introduced a budget reducing real wages by 4 percent. Other leaders in Belgium, Britain, Denmark, Greece, the Netherlands, and West Germany are similarly urging austerity budgets and spending cutbacks, along with reductions of state enterprises.

The problem common to all these nations is their oversize public sector and welfare programs. The fiscal burden threatens to stifle the Europeans' recovery from the recent world recession. In Denmark, for example—where taxes consume more than half of the nation's income—40 percent of this year's budget must be financed with borrowed money, thus choking off private investment. Belgium's government deficit equals 13 percent of the nation's GNP—in the United States, by comparison, the figure is 6.5 percent—and Italy's deficit, 15 percent of the country's GNP. Greek Finance Minister Gerassimos Arsenis, quoted in a December *New York Times* report, said, "The road to Socialism no longer passes through the welfare-statism of the 1950's and 60's. Today Socialist goals require restructuring the economy, improving competitiveness."

Perhaps the most aggressive reforms may come in the Netherlands, where the government's deficit approaches 12 percent of GNP. Prime Minister Ruud Lubbers was recently quoted in *Business Week* as having said that the nation is returning "from the welfare state to the free-market economy." Lubbers proposes to cut unemployment and disability rolls by 10 percent, terminate 11,000 government jobs, reduce minimum-wage levels, and lower the corporate income-tax rate from 48 to 40 percent. Also included in the Christian Democrat-Conservative government's supply-side approach is the intention to reduce regulation in general, such as relaxing stringent rules governing plant closures and layoffs.

Other nations' notable moves to contain the welfare state include Margaret Thatcher's cutting 8,000 jobs from Britain's National Health Service, the first such cuts in 30 years, and Craxi's proposal to shrink Italy's social programs by $6.3 billion next year as well as to remove more than 30,000 workers from money-losing state-owned industries. Spain's Socialist government is now admitting foreign banks and is promoting part-time labor. Helmut Kohl, chancellor of West Germany, has tightened up unemployment and disability benefits, limited civil-servant wage increases to 2 percent in 1984, and put a 1.5 percent cap on state-pension increases.

Whether or not the various reforms are enough to brake the plunge of the European states' economies, the lesson to be heeded on this side of the Atlantic is an old one: there ain't no such thing as a free lunch.

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you have organized crime."

Corbin's moral counterpart in California, Atty. Gen. John Van de Kamp, has intervened in a Riverside County court case there to try to end big-stakes reservation bingo in that state. At this writing, a decision is expected early in 1984.

The best result of the litigation would be letting the reservations continue making their profits unimpeded by state-government bluenoses. As Ed Olivas says, "There's a self-value that comes from working and earning whatever you have instead of waiting for a government handout or for programs that don't consider the dignity of the individual."

REFORMING PRICE-ANDERSON

The Nuclear Regulatory Commission (NRC)—the federal agency that regulates the nuclear-energy industry—in December advised Congress to substantially gut the Price-Anderson Act (which is due to expire in 1987). Passed in 1957 as an amendment to the Atomic Energy Act (and since twice renewed), Price-Anderson limits commercial nuclear-reactor operators' liability for any damages caused by nuclear-plant accidents.

In essence, Price-Anderson mandates governmental decree for deciding issues—namely, liability and damage awards—that are ordinarily settled in the courts. And by setting a limit on nuclear-plant operators' liability, Price-Anderson effectively removes a market incentive for high safety standards (substituting the judgment of government regulators who have no direct incentive to devise and implement safety standards that maximize safety and minimize the cost of achieving it).

The NRC proposals would set right some of these unfortunate circumstances. The commission recommended the abolition of a liability limit (presently $570 million for any one accident). Under Price-Anderson, each of the nation's licensed reactors (there are now 82) would be required to contribute up to $5 million a year to an insurance pool, with another $160 million coming from private insurance, in the event of an accident requiring the maximum compensation. (To date, the largest total in claims for an accident came to $29.5 million, following the 1979 Three Mile Island incident.) Instead, the NRC proposed in December that, in the same common-pool manner as specified under Price-Anderson, each plant contribute up to $10 million a year (for as many years as necessary) to compensate accident victims.

Moreover, the regulatory commission recommended extending from 20 years to 30 years the statute of limitations for making a claim for damages against a plant operator. The reason, the commission noted, is that latent, radiation-caused cancers may not be detectable until 30 years after exposure.

The subsidy to the industry provided by Price-Anderson, and the problem of dealing with long-term effects, have been major bones of contention for nuclear-power opponents.

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MILESTONES

• *Reasonable withdrawal.* Calling the United Nations Educational, Scientific and Cultural Organization (UNESCO) "a babel of words notable for their muddiness and dishonesty," the liberal-oriented *New York Times* in a December editorial backed the Reagan administration's intention to withdraw from the UN group. "A United States withdrawal," the *Times* stated, "would not harm any democratic cause or global understanding."

• *Line-item veto upheld.* Sixty-seven percent of the respondents to an October Gallup poll favored giving presidents the power to veto specific items of congressional bills. At present, presidents must either approve or veto an entire bill as it is passed by Congress. Proponents of line-item veto power suggest that it would enable presidents to put a check on special-interest and pork-barrel legislation.

• *Space transport boosted.* Federal Transportation Secretary Elizabeth Dole has urged a rapid end to NASA's federal monopoly on carrying satellites and other celestial fare into space. Dole has formed a study group to encourage private space-transport investment.

• *Kidvid requirements nixed.* The Federal Communications Commission in December vetoed a proposal to impose on TV broadcasters children's-programming quotas and guidelines. Noting that such requirements might be unconstitutional, the FCC also stated that a wide array of children's shows are already being provided on the free market.

• *Tax revolt wins.* Michigan's liberal political establishment received a big jolt in November when voters recalled two state senators—David Serotkin and Philip Mastin—mainly because they supported Gov. James Blanchard's 38 percent increase in the state income tax.

• *High hand for poker law.* By a margin of more than 7 percent, voters in Los Angeles County's Norwalk passed an ordinance in October legalizing poker parlors. Norwalk is the seventh L.A. County city to allow the card clubs. There are now about 325 such establishments in California.

• *Free-market vision.* Consumers may save up to one-third of the cost of contact lenses by going to commercial vision centers rather than licensed and heavily regulated optometrists—and with no loss in quality, according to a Federal Trade Commission report. "State restrictions may result in higher prices because consumers might have limited access to those who would provide the services at lower costs," it said.

• *Moo question.* In November, the Supreme Court announced that it will decide whether consumers may go to court to challenge the Agriculture Department's regulation of dairy prices. Worried Justice Department attorneys warned that lawsuits by consumers "could result in constant uncertainty about the validity of the [Agriculture Department's marketing] orders."

• *Citi slicker.* New York's Citicorp is dealing another blow to the antiquated laws against interstate banking by installing automatic teller machines in Safeway supermarkets in California and Publix supermarkets in Florida. Citicorp's customers with Mastercard, Visa, Carte Blanche, and Diners Club cards will have easy access to cash from the Citicorp machines.

• *Follow the liter.* The government of Canada has suspended compulsory use of the metric system in retail sales. The move came after a provincial judge backed two Toronto gas station owners who had been prosecuted for selling gas by the gallon instead of the government-mandated liter.

—ROBERT W. POOLE, JR., PAUL GORDON, AND ERIC MARTI

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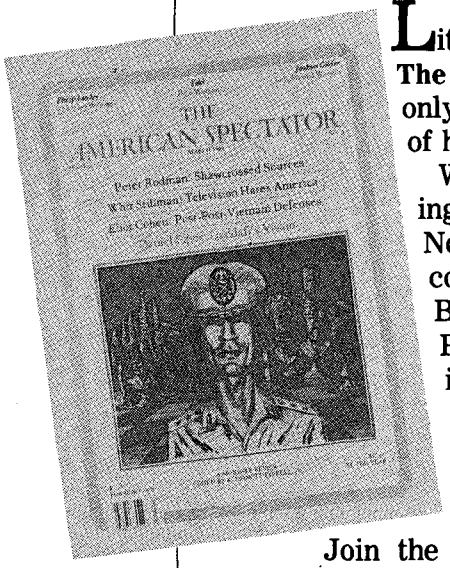

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BY SAM COHEN

Technology could be exploited to end the tragedy of war in the Middle East. A defense expert offers a radical new strategy for defending Israel's borders.

On October 6, 1973, the Yom Kippur war began with a surprise attack against Israel by Egypt and Syria. After initial successes, the Arab armies were repulsed; two weeks later, Israeli forces had moved deep into Arab territory. The United Nations succeeded in arranging for a cease-fire, which managed to hold on the Syrian front but fell apart in Egypt, where Israeli forces had trapped the Egyptian Third Army and fighting continued. The Third Army was in danger of being destroyed, which would have been a great disaster for Egypt, a disaster that neither the United States or the Soviet Union welcomed. The United States believed that such an outcome would work against establishing a durable peace in the Middle East and would weaken the US position in that region. The Soviets didn't want an Egyptian defeat because they were on the Arab side and had armed and trained the Egyptian and Syrian forces.

Having a common objective for a change, the US and Soviet governments got together and agreed to seek an enforcement of the fractured cease-fire. The United States placed great pressure on Israel to forgo the destruction of the encircled Egyptian forces, but these efforts to stop the fighting failed. As a consequence, the Soviets, feeling that they had been betrayed by the United States, began to prepare for military intervention.

The United States reacted by placing its military forces on a higher level of alert. Several dozen B-52 strategic nuclear bombers were shifted from their bases in Guam to the United States. A supercarrier, the *John F. Kennedy*, was ordered to the Mediterranean. The 32nd Airborne Division was readied for dispatch. All of this was intended to show that the United States was readying itself for a possible confrontation with the Soviets, a confrontation holding the risk of nuclear war.

Finally, the Israelis pulled away from the fighting, and the war ended. But there had occurred a hair-raising crisis that held the threat of escalating to Armageddon for all parties involved. Whether the US or the Soviet government might have backed down had Israel refused to stop the war, we'll never know.

One thing is clear, however. Had the United States, to save Israel, joined in an escalatory process to the top rung of the ladder—to thermonuclear war with the USSR—this would have been insane: America would have succeeded in committing suicide; Israel would have perished under Soviet nuclear attack; and to one extent or another, the world would have suffered from the long-term effects of general nuclear war. Speaking as an American, this is one risk that the government of my country, the United States, should never again take on

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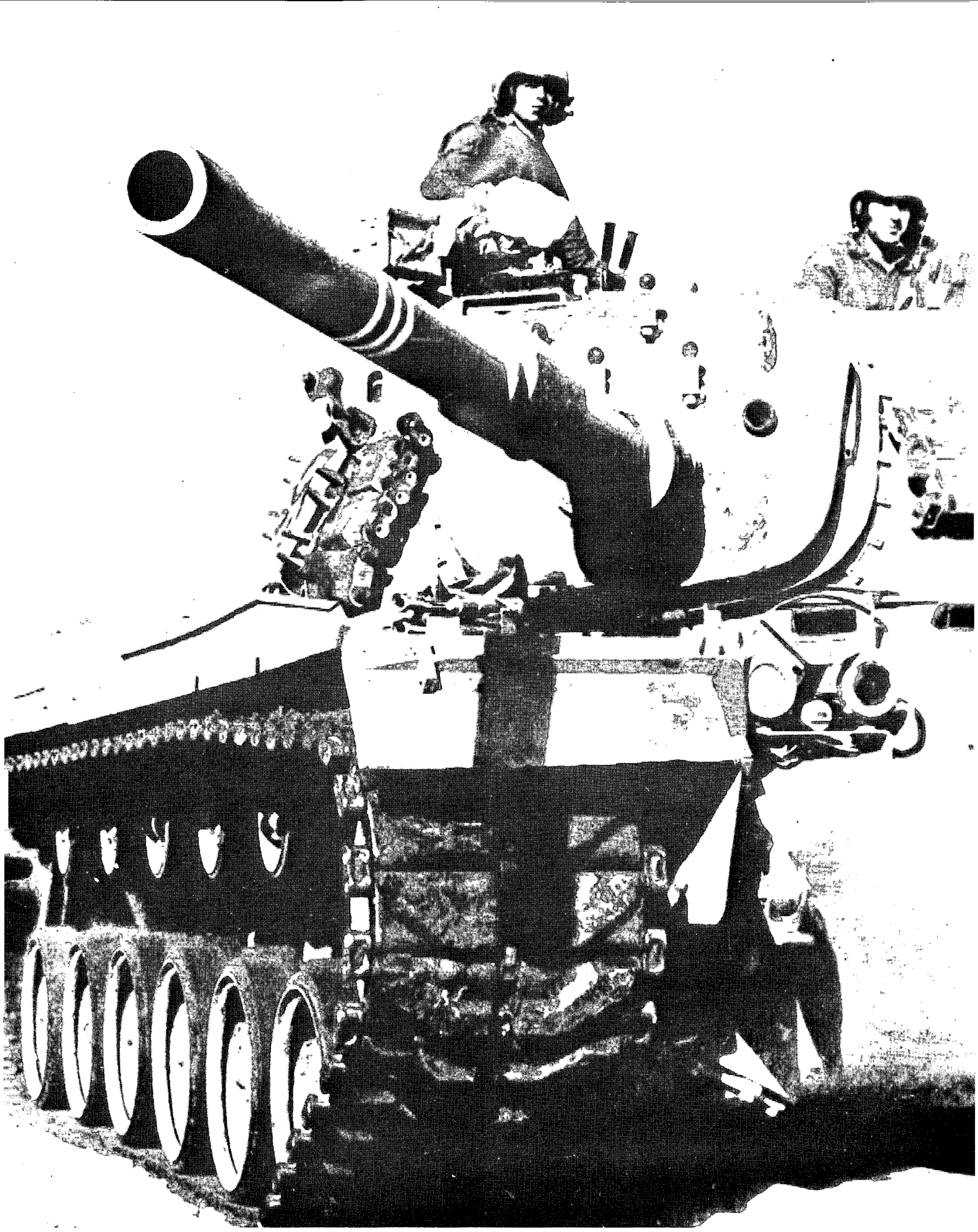


behalf of Israel (or any other ally, for that matter).

Unfortunately, current US policy toward Israel does not preclude a similar crisis from happening again. This strongly suggests that if the US government is to continue providing Israel with military assistance—and political realities are that it is likely to do so—it should seek to guarantee that a Middle East crisis involving the threat of Soviet intervention can never again arise. This can be accomplished by insisting that Israel change its military posture to achieve a self-defense-oriented capability, and then by assisting in this change. And what I mean by self-defense is a capability where the strategy for Israel's ground forces is solely to make it infeasible for Arab ground forces to invade Israeli territory and for Israel to invade the territory of its Arab neighbors.

I will advance and explain here a defensive scheme for achieving this capability. It does not involve nuclear weapons. Moreover, it can be accomplished in a highly moral fashion, in that the scheme is purely one of self-defense that precludes the ravagings of conventional wars, which have ravaged the Middle East time and time again.

It is not the United States alone, in an effort to prevent a nuclear confrontation with the Soviets, that has an interest in Israel's self-defensive capability. Israel itself, of course, has an acute stake in the matter. In the second half of this century Israel has been in more wars than any other country and presently seems heading toward the next one. As is always the case when a liberal democratic country goes to war, the cost to Israel has been high and little has been accomplished by way of preventing future conflicts.

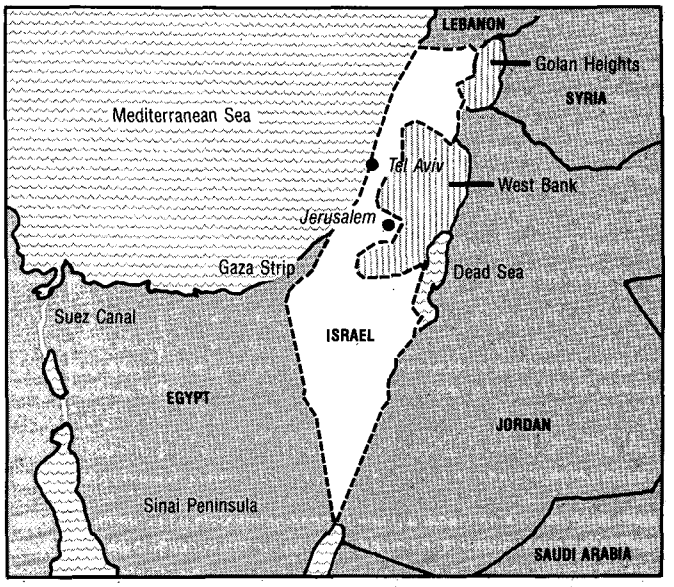
To be sure, there has been no way for the Israelis to avoid these costs when their very existence has been threatened by an Arab determination to bring abut their demise. To defend against this threat they have gone to war time after time, employing a highly offensive military strategy. Time after time, they have sent armored columns deep into Arab countries, sometimes occupying or annexing conquered territory, which has only served to sharpen tensions and bring about conditions for another war.

Throughout these years of Mideast turmoil, the United States has sought to bring peace to the area via diplomacy and by selling and giving arms. Our diplomacy, obviously, has been far from successful. The arms we have provided, mainly to Israel, have been used to bring about tragic levels of death and destruction, and all signs point to our having to supply more and more weapons in a futile quest to bring about a "stable" balance of power, in an area that is perhaps the most unstable on earth.

The tolerance of the American people for this dismal pattern may be nearing an end. President Reagan has declared an "ironclad" commitment to Israel's security, but the US record for maintaining its security commitments has not been ironclad—nor should it have been. When a nation perceives that its own security is best served by reducing or withdrawing commitments to others' security, it should do precisely that. If Mideast countries continue with their past behavior, the only prudent course for the United States may be to pull out of a hopeless morass that imperils its own security.

If the Soviets intrude again in an Arab-Israeli war, this time with vastly improved nuclear capabilities to back up their actions, the survival of the United States would be at stake. Clearly this is a situation where it would be irrational—indeed, intolerable—for us to remain committed to Israel. Clearly, the most responsible thing the United States can do, to ensure its own security, is to make drastic changes in its military assistance to Israel (and to other Mideast countries as well) to prevent such a situation from ever arising. Otherwise, based on the wretched history of this turbulent arena, there is every reason to expect that one of these days a nuclear showdown *will* arise.

A solution to the Palestinian problem and Israeli withdrawal from occupied territories has supposedly been at the heart of gaining peace between Israel and its Arab neighbors. These objectives constituted the basis of President Reagan's Mideast proposal of September 1, 1982. "Self-government by the Palestinians of the West Bank and Gaza in association with Jordan offers the best chance for a durable, just and lasting peace," said Reagan at the time. Reagan's proposal garnered precious little support from either side, especially on the Israeli side, and at present has precious little chance of succeeding.



Six years earlier, Israel, then under a Labor government, had contemplated something similar in the form of the Allon Plan, proposed by Yigal Allon, at that time Israel's deputy prime minister and minister of foreign affairs. Under the Allon Plan, the West Bank would be incorporated into a single Jordanian-Palestinian state, and Israel would in turn give up the bulk of the occupied areas. In withdrawing its forces from the occupied areas, Israel would achieve agreement for their effective demilitarization. However, to ensure its security, Israel would hold on to a belt of land at the West Bank-Jordanian border, a strip along the Golan Heights, and a belt in the Sinai Peninsula somewhat west of the 1949 Armistice Line; the purpose would be to establish a military buffer zone—Allon referred to it as a strategic defense zone—against possible attack by its Arab neighbors to the east and west.

In the framework of such an agreement, for geographical reasons, the major threat to Israeli security would come from the east, where, as Allon explained,

the entire width of the coastal plain varies between 10 and 15 miles, where the main centers of Israel's population, including Tel Aviv and its suburbs, are situated, and where the situation of Jerusalem is especially perilous. Within these lines a single successful first strike by the Arab armies would be sufficient to dissect Israel at more than one point, to sever its essential living arteries, and to confront it with dangers that no other state would be prepared to face. The purpose of defensible borders is thus to correct this weakness.

Since the Allon Plan was advanced, a number of fundamental changes have taken place.

In 1979, Israel and Egypt signed a peace treaty that eliminated the possibility of establishing a buffer zone in Egyptian territory. Moreover, over the last year or so, because of the Lebanese war, Egypt has had increasingly strained relations with Israel and has been moving back into the Arab camp. Combining these two factors, the potential threat to Israel from the west has increased significantly since Allon made his proposal in 1976.

The Lebanese war itself and the mayhem resulting from it has also affected the Allon Plan. Syria has consolidated its position in Lebanon and increased its military presence there. Israel now occupies southern Lebanon and seems disposed to stay there for the indefinite future, and this will result in continued political tensions.

Finally, there is the rapidly increasing number of Israeli settlements in the West Bank, promising to make the occupation permanent. Should this happen, the Palestinian question will remain as a primary menace to Mideast peace. It also will seal the coffin on Reagan's peace proposal.

Summing up the principal virtue of his plan, Yigal Allon stated, "Good fences make good neighbors." It is conceivable, although most doubtful, that with the Allon Plan in force, the Arab states might become good enough neighbors to accept lasting peace with Israel. Whatever these prospects may be, however, will depend on how good a fence Israel might construct and, equally important, how good the Arabs consider it. In this regard, one can only observe that no system of military defenses in history has ever succeeded in deterring aggression by a determined (or impassioned) enemy.

When the fundamental causes of war remain, sooner or later, regardless of the aggressor's perception of the military balance, war breaks out. And even if the aggressor had no intention, at some point in time, of attacking, the defender might perceive otherwise and launch a preemptive attack or might attack in retribution for some hostile act by the other side. In large measure, these situations have produced a number of Arab-Israeli conflicts—and promise to produce still more.

"Good fences make good neighbors," said former Israeli foreign minister Yigal Allon of his 1976 peace plan.

There is, however, a defensive formula that may render meaningless a would-be aggressor's calculation of the possibilities for success, regardless of how determined, or impassioned, he may be. What I am suggesting is the construction of a border barrier whose most effective component is an extremely intense field of nuclear radiation (produced by the operation of underground nuclear reactors), sharply confined to the barrier zone, which practically guarantees the death of anyone attempting to breach the barrier. Establishing such a "nuclear wall" at the borders of a threatened country can make virtually impossible any successful penetration by ground forces—*as well as a preemptive ground attack by the threatened country.*

In the late 1950s, when Israel decided to embark on its nuclear-weapons program, Shimon Peres (then a ranking official in Ben Gurion's administration and today the head of the Labor Party) expressed his views on the potential of that program:

> *Nuclear development and science could bring peace. Peace will not come from the efforts of foreign countries, nor will it grow on Middle Eastern soil. Israel can bring peace close to it if it will persuade the Arabs that with the help of science we can bring an end to the chance that they can defeat us.*

Peres almost certainly had nuclear explosives in mind, and not the existing nuclear-fission reactor technology that was capable of providing the radiation field required for a nuclear wall around Israel. (Today, a quarter century later, modern reactor technology can accomplish this with greatly improved efficiency.)

Briefly, this is how such a barrier scheme would work:

During peacetime, the reactors (employed underground, for protection and safety) are operated on a continual basis, as are our power reactors. The neutrons produced by the fission reactions escape into a solution containing an element that, upon absorbing the neutrons, becomes highly radioactive and emits gamma rays (very high energy X-rays) at extremely high intensity. The radioactive solution is then passed into a series of pipes running along the barrier length in conjunction with conventional obstacle components—mines, Dragon's Teeth, tank traps, barbed wire, etc. To the rear of the pipes and obstacle belts is a system of conventional defensive fortifications. (The obstacles, the firepower from the fortifications, and tactical air power all serve to impede the rate of advance of the attacker, increasing the attacker's exposure to the gamma radiation. Vice versa, by quickly incapacitating the attacker, the radiation serves to make it difficult, or even impossible, for the attacker to remove the obstacles and assault the fortifications.) The width of the entire defensive system need be no more than a few miles.

The gamma ray field in the immediate vicinity of the obstacle zone readily can be sufficiently intense that several minutes' exposure will produce incapacitation and ultimately death. However, at a distance of, say, 1,000 yards from the pipes, the radiation intensity is so reduced that people are perfectly safe. In fact, a person could stand all day at this distance without putting himself in jeopardy.

In a nutshell, this is the basic idea of a radiation barrier, which, I maintain, holds out the possibility of peace for the Middle East. A number of aspects of this scheme deserve more discussion. The moral aspects are probably of most concern to many people who are repelled by the idea of using radiation for military purposes. (Of course, none of us is horror-struck over using the identical kind of radiation for medical purposes; yet in effect the gamma rays at issue here can work to save far more lives than medical X-rays by reducing the chance of war.)

Regarding the morality (or immorality) of such defensive use of nuclear radiation, one should keep in mind that the gamma rays themselves can, of course, have no intentions; nor is there necessarily any intent by those who produce them to kill anyone. The intent to kill has to lie with the aggressor—to kill himself. This contrasts sharply with the employment of conventional weapons, where there is every intent to kill the enemy. The basic purpose of the radiation is to deter the would-be aggressor from attacking; that is, to prevent war.

A valid analogy here is the use of an electric fence to keep intruders from some valuable or potentially dangerous facility. The electricity is neutral, and the facility management holds

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no particular wish to see the intruder (a fellow human being) killed and would just as soon have him not even try to scale or cut through the fence.

As for the effects of gamma rays on anyone who tries to pass through the radiation field, the experience to date (arising mainly from radiation accidents) gives no indication that the degree of suffering would be greater than that from exposure to lethal conventional weapons. In fact, there is no indication that the suffering would even be as great as that from certain conventional weapons that are normally used and are held to be perfectly acceptable for helping a country defend itself against aggression. Moreover, continuing with this grisly business of human victims of war, the suffering of an aggressor who senselessly persists in trying to penetrate a radiation barrier will not endure for very long; he will receive a dose of gamma rays sufficiently high to kill him within less than an hour.

The only prudent course for the United States may be to pull out of a hopeless Mideast morass that imperils its own security.

To be sure, the distress resulting from massive radiation exposure would be severe. However, the symptoms are not different from what human beings have experienced from disease and pestilence over the centuries, including such effects as vomiting, diarrhea, dizziness, chills, and fever. But the suffering of the radiation-barrier victim will be over much more quickly than that of a disease or pestilence victim.

And what about the agonies human beings have endured over the centuries as they perished at the hands of defending forces using conventional weapons, which today are defined by Western nations and most religions as the only moral means of combat? Was death caused by flaming oil poured over the parapets in ancient times or by napalm in modern times less agonizing than from massive exposure to gamma radiation? What judgment does one pass on the morality of ancient barbed arrows or modern fragmentation bombs, designed to rend human flesh, when comparing their effects with those of gamma rays? How does one assess the relative horrors of dying by mutilation from an exploded mine or from being irradiated by gamma rays?

What is of relevance here is that there is no objective basis on which to single out gamma radiation effects as an especially repugnant means of defending a nation's territory and people against aggression.

What about the moral objections that have been made against nuclear weapons? These objections have been founded on three premises: (1) they are deliverable explosives that can be used to inflict death and destruction on an enormously greater scale than conventional weapons; (2) they represent a class of weapons that, with their radiation, are qualitatively different from conventional weapons, primarily because of long-term radioactive fallout; and (3) the introduction of those weapons into warfare, however limited, poses the unacceptable risk of escalation to all-out nuclear war. While the nuclear-barrier scheme advanced here has not been a subject of these moral deliberations, the scheme can be evaluated in their light.

To begin with, it is by no means clear that an immovable pipe filled with radioactivity can even be classified as a weapon. *Webster's* defines a weapon, in the military sense, as "an instrument of offensive or defensive combat: something to fight with." By this definition, a radiation barrier, like a barbed-wire fence or an electric fence designed to keep intruders out, cannot be considered a weapon. It is not an instrument of combat; for combat, again according to *Webster's*, is "active fighting in a war." A fixed pipe is not active, it is passive; it stays put in the defender's territory and is designed to save lives by deterring attack and, if that fails, preventing the attack from succeeding.

Next, the source of the nuclear energy in a radiation barrier does not explode; it is a nuclear reactor that stays intact while generating neutrons (it could be used to generate electricity, as well) to produce radioactivity. The reactor is a large, extremely heavy, buried object that cannot be "delivered" to inflict death and destruction on any scale whatsoever, let alone on an enormously greater scale than conventional weapons. It is no more a weapon than the pipes.

Although a nuclear barrier achieves its effectiveness from radioactivity, the radioactivity is not deposited over huge areas, nor does it persist for years and decades, as does the fallout from nuclear explosives. Rather, it is deposited in a pipe perhaps an inch or so in diameter; its radiation effects are constrained strictly to the zone of military application; and its persistence is but a tiny fraction of that from fallout. Unlike the dreaded huge-area, long-term fallout associated with nuclear explosives, it cannot affect noncombatants and society itself on a massive scale.

Finally, there are the fears that even the most limited use of nuclear weapons will lead to all-out nuclear war. But a radiation barrier is qualitatively different from high-explosives. It is difficult to see how operating nuclear reactors underground and filling pipes with radioactivity—all this taking place on one's own sovereign territory during peacetime—poses the threat of the world blowing itself up with hydrogen bombs. One must conclude that the defensive strategy proposed here would exploit nuclear technology without the risks usually ascribed to nuclear weapons.

Could nuclear arms controllers object to this scheme? No nuclear arms control agreement to date has involved limits that would inhibit the development of a radiation barrier. In recent years, the United States, working with the Soviet Union and other nations at the Geneva Conference, has been attempting to negotiate a treaty barring the employment of radiological weapons, that is, weapons utilizing radioactive materials. But an examination of the US position on a possible radiological treaty shows that, as for all other nuclear arms control treaties, a nuclear radiation barrier has never been taken into consideration.

In entering into these treaty negotiations, the United States made it plain that it held those weapons to be in the general category of weapons of "mass destruction," as the term was defined by the United Nations in 1948:

Weapons of mass destruction should be defined to include atomic explosive weapons, radioactive material weapons, lethal chemical and biological weapons, and any weapons developed in the future which have characteristics comparable in destructive effect to those of the atomic bomb or other weapons mentioned above.

The radiation barrier involves a pipe filled with radioactivity of controlled duration, installed on friendly soil for the purpose of self-defense, and whose radiation effects are constrained to a very narrow strip of unpopulated territory. Clearly, this cannot be called a weapon of mass destruction, and a radiation barrier could be constructed without any violation of existing or contemplated nuclear arms control treaties.

Another possible objection to the defensive scheme proposed here involves the cost. But the key question is, compared to what?

Are we to compare the cost of a nuclear barrier and the cost of Israel fighting still another ground war? If indeed a nuclear barrier can deter aggression, by both sides, then the comparison is between the cost of peace and the cost of war if Israel is to continue with its war-fighting ways.

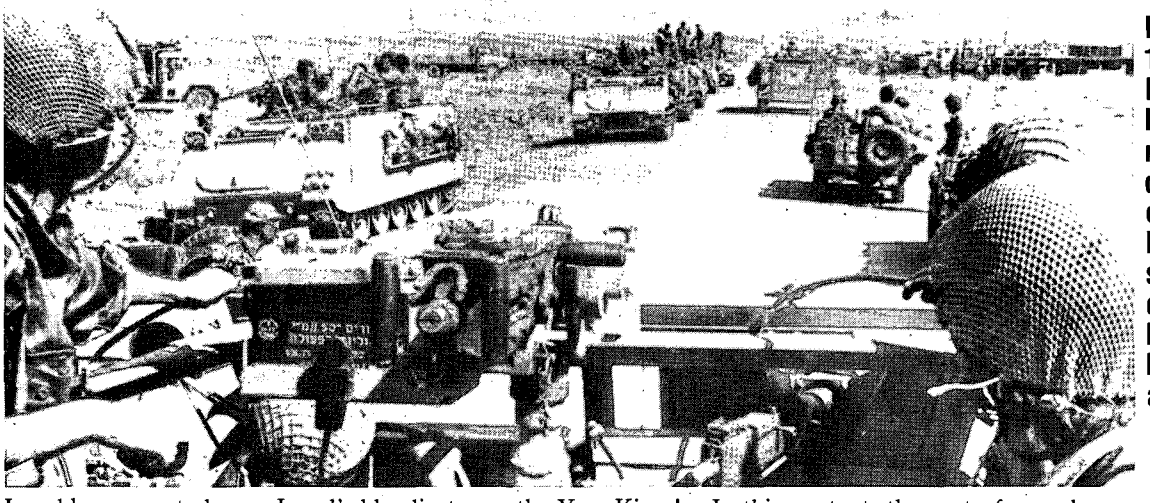
Israel may go on winning wars, but each war exacts a price, a huge price for so tiny a nation. Its generals may continue to have winning strategies, but every military victory will have its economic and political losses that are detrimental to Israel's well-being. Israel cannot afford to lose a war, but a fair question to ask is, How much longer can it afford to go on winning?

All wars fought by large modern armies cost dearly, as Israel has come to know. Israel's bloodiest war, the Yom Kippur war in 1973, exacted a staggering price in human casualties and expenditure of resources for such a small nation. Some 2,500 lives were lost (the equivalent of about 150,000 US lives, were the United States to fight a war at this casualty level), and the war cost an estimated $10 billion (approximately that year's gross national product). Even the Lebanese war, hardly of comparable ferocity and carnage to previous wars, has been estimated to have cost several billion dollars so far. What the next war might cost—if Israel is not successful in making peace with its neighbors, and even then, peace treaties in an area continually wracked by turmoil may not be worth the paper they are written on—who is to say? But considering the rate at which the Arab countries are arming and rearming themselves, as well as Israel's expanding defenses, another war could be appallingly expensive.

If the cost of a barrier is to be compared to the cost of Israeli expenditures for conventional defense to avoid war (which has not happened so far), it is then peace versus peace. And for Israel, the price of peace, when the nation has been fortunate enough to enjoy it, has been high—very high—indeed.

Israel is the world's most heavily armed nation, spending more defense money per capita than any other country in the world. If it is not at war, in recent years about one-sixth of its gross national product has been going into the defense budget, which is close to a third of the national budget. (When it goes to war, these fractions rise sharply.) These vast defense expenditures have greatly affected Israel's economic condition and placed severe burdens on the taxpayer. For more than a decade, inflation has been running at an annual rate of well over 100 percent.

Striving to achieve peace through strength may have given Israel physical security so far, however staggering the cost; but it hasn't succeeded in keeping the peace, and it certainly hasn't succeeded in providing peace of mind to the embattled Israeli citizenry. Founded as "a light unto the nations" with proclamations of peaceful intentions and a national vision of a just, democratic society, Israel has become increasingly chauvinistic and its leaders increasingly bellicose in stressing the need for military strength and force. As a consequence, Israeli society has become divided as citizens seek to reconcile peaceful aims with military necessities and its own self-image has deteriorated. Its image before much of the free world has also deteriorated, as debate has increased over whether Israel is truly interested in resolving Middle East problems, especially the Palestinian issue, which all Western countries wish to see resolved.



During the 1973 Yom Kippur war, Israel's military dependence on the US might have led to a superpower confrontation. It could happen again.

In this context, the cost of a nuclear wall against war, unless it is beyond economic reach, is irrelevant; for if such a barrier could truly prevent ground invasion, it would dramatically alter Israel's situation. As Yigal Allon, in explaining his proposal for a military buffer zone, declared:

At least as far as conventional wars are concerned, the following basic truth remains: without an attack by ground forces that physically overrun the country involved, no war can be decisive. This is all the more so in the Middle East where the Arab side is no less vulnerable to rocket and aerial bombardment than Israel, a factor that can greatly minimize the use of this kind of weaponry; and will leave to the ground forces the role of really deciding the issue.

This importance of security against ground invasion is what makes the cost of a nuclear barrier almost a minor consideration.

However, for those curious to know what the barrier construction cost might be, I have estimated that installing the reactors, obstacle components, and defense fortifications would cost roughly several billion dollars—not very much compared to an Israeli military budget that has been running at some $5 to $10 billion a year, depending on whether Israel is fighting a war or undergoing a massive force modernization to

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prepare for the next one. Moreover, by in effect substituting gamma rays for bullets, substantially fewer personnel would be required for a barrier-oriented force than for Israel's current military forces, leading to substantially reduced operating costs.

One might fairly wonder about Israel establishing a peacetime wall of radioactivity at the border of an Arab nation, Egypt, with which it has peaceful relations. Would this not cut off free surface passage into each other's countries and thus violate traditional diplomatic codes of peaceful behavior? Yes, it would, were the radioactivity to be continuous along the border. But during peacetime it would not be necessary to fill the pipes that cross roads leading into friendly countries. Were these countries to become unfriendly once again and threaten to launch attacks against Israel's borders, the pipes could be quickly filled to close the peacetime radioactivity gaps.

Besides precluding an armored invasion, the barrier would also defend Israel against the possibility of terrorists from neighboring states slipping across the borders to attack settlements, ambush school buses, and commit other atrocities of the kind that have gone on in the past. These acts of terrorism—which over the years have provoked Israel into retaliatory bombing raids, airborne commando attacks, and armed incursions into Arab territory, resulting in extensive casualties to civilians—effectively would come to an end.

On the other hand, whereas a radiation barrier may deter terrorists from crossing over borders, it cannot prevent them from launching rockets over borders. Perhaps the best that can be said, sadly so, is that during the many years that such attacks have gone on, the number of Israeli deaths that have resulted have been practically negligible, on the order of a few hundred. Whereas it would be highly inappropriate for an outsider to pass judgment on what Israel's tolerance for such attacks should be if they are resumed at some future date, what can be said is that with a two-way restraining barrier in place, at least a repetition of the Lebanese invasion can be avoided. Israel might elect to respond to terrorist rockets by conducting bombing and commando raids in hopes of deterring further such attacks, but the civilian damage would be far less than from a full-scale invasion.

Even were Israel to secure its borders with a nuclear barrier, this would not, of course, secure its territory and people against Arab air attack. Israel would have to maintain air defenses and a retaliatory air-strike capability to deter such attack. And as Allon explained, the Arabs and Israelis are equally vulnerable to air attack, so that one side's air power serves as a counter to the other side's use of its air power.

Finally, there is the matter of Israel's unacknowledged stockpile of nuclear weapons and what role these weapons might play in a barrier-oriented defensive scheme. Obviously, were the barrier to succeed in preventing Arab ground forces from overrunning Israel, Israel would never be in a position to use nuclear weapons as an act of revenge in a hopeless situation. Its nuclear weapons would thus be relegated to a strictly deterrent role, against possible Arab use of nuclear weapons against Israel.

The Yom Kippur war and the peril it posed to American security occurred some 10 years ago. At that time, the United States probably held a significant edge in theater nuclear firepower that could be applied to the region, and a state of parity was assumed to exist between US and Soviet strategic nuclear forces. This is not to say that it would have made sense for the United States to attempt to exploit a perceived advantage in local nuclear capabilities by initiating the use of nuclear weapons, had a military confrontation with the Soviets taken place. Rather, it is to say that the Soviets, ostensibly having an inferior theater nuclear capability, might have refrained from nuclear use and sought to resolve the conflict by conventional warfare. But this is speculation on what might have happened a decade back. Today, a drastically different nuclear balance exists.

Since 1973, US theater nuclear capabilities relevant to another Israeli-Arab war have not changed in any appreciable way. On the other hand, Soviet capabilities have increased hugely, posing a military threat of a far greater magnitude than was the case a decade back.

Soviet naval nuclear capabilities in the Mediterranean have expanded substantially. Based in the Soviet Union are increasing numbers, already in the many hundreds, of modern supersonic Backfire nuclear bombers and SS-20 ballistic nuclear missiles that have full coverage over the entire Middle East and Mediterranean areas. In the strategic nuclear area, too, the Soviet Union has forged ahead during the last 10 years. Under these conditions, for the United States to risk nuclear war by risking a confrontation with the Soviets in the Middle East would defy reason.

Working out this defensive strategy would involve the most painful concessions by both sides—to each other and to themselves.

This unhappy fact of life, if there is to be any sanity on the part of my country, excludes the possibility of US military intervention in the event of another Mideast war. Should Israel once again put itself in a position where its military forces threaten the integrity of an Arab country and should the USSR threaten to come to the aid of that country, Israel would have to be on its own. Considering the overwhelming military force the Soviets could bring to bear, this would place Israel in an untenable position whether or not it used nuclear weapons. The real threat to Israel in the future, if it continues with its past military doctrine, will thus be the Soviet Union, not the Arab nations, however powerfully they may arm themselves with conventional weapons. And this compels Israel to change its doctrine in favor of a guaranteed defense of its borders to ensure that they will never be placed in a position that brings the Soviets into an Arab-Israeli war.

Even short of the threat of Soviet intervention, however, there are compelling reasons for Israel to change its military posture. In his speech of September 1, 1982, proposing an Arab-Israeli peace, President Reagan pleaded for compromise in the negotiations over Palestinian autonomy and reaffirmed (as all US presidents have felt compelled to do) the US-Israeli defense alliance. The president was undoubtedly sincere in his promise. In the mid-1960s, America's commitment to the security of South Vietnam seemed ironclad, too. When the

hard facts of life became apparent, American popular support for South Vietnam evaporated; Congress got the message; and it was decided that US security interests, which were being badly eroded by the war, meant more than those of an ally it had pledged to protect.

Should a time come when the American people and the Congress decide that Israel is more a liability than an asset—and there are good reasons to believe that it may—unless Israel has prepared for it by adopting a new defense posture, its future may be about as secure as that of South Vietnam, which fell to the Communists a few years after the withdrawal of US support. This suggests, even demands, that Israel seek to come to terms with the United States by which, with US assistance, a new Israeli military posture can be achieved that effectively rules out ground war as a solution to Mideast political problems and that offers a realistic hope for ameliorating, or even solving, the foremost political problem: the Palestinian issue.

When proclaiming his peace plan, President Reagan left no doubt about his dedication to the establishment of Palestinian autonomy. "Self-government by the Palestinians of the West Bank and Gaza in association with Jordan," he said, would be

fully consistent with Israel's security requirements and the aspirations of the Palestinians. . . .

These then are the principles upon which American policy will be based. I have made a personal commitment to see. . . that they will come to be seen by all reasonable, compassionate people as fair, achievable, and in the interests of all who wish to see peace in the Middle East.

Since then, however, there has been a widening gulf between the Reagan proposal and the political realities of the Mideast, and there has been no concrete progress toward implementing the proposal. Israel has gone on mainly behaving like Israel, and the same has held true for the Arabs. This has been a major source of frustration to the United States, with all signs pointing to a worsening of the situation. But there have been no signs of a US disposition to pull away from Reagan's proposal.

As a result, an impasse between America and Israel may persist, having the most damaging of consequences for Israel. To prevent this from happening, Israel might wish to pay heed to President Reagan's apparent willingness to accept "fair and reasonable compromises"—provided the United States will back up its high-sounding words of commitment to Israel's security with concrete deeds to assure its military self-defense.

These deeds, if they are to be at all realistic, for all the reasons I have sought to explain, will have to be nuclear deeds. For the purpose, if I may put it very bluntly, of enabling the United States to disengage itself militarily from the Middle East, Israel's defense will have to become, literally, its nuclear self-defense, via a wall against war.

I admit that the current political climate in Israel and in the United States does not bode well for this change. To expect the United States and Israel to agree to build a nuclear barrier that would protect Israeli borders that accommodate the terms of the Reagan peace proposal is about as realistic as expecting that the peace proposal will succeed in the absence of any drastically new steps. On the other hand, I have argued here that the national security policies of both countries have been anything but realistic in today's real world. Four decades into the Nuclear Age, the United States has refused to recognize the consequences of Soviet nuclear realities; and in the context of Soviet nuclear realities, Israel has refused to recognize the consequences of fighting more wars with its neighbors.

Were both countries to open their eyes to the dangers that lie ahead if they continue with their unrealistic policies, and were both to realize that sooner or later their separate national-security interests will work to dissolve their present mutual-security interests, perhaps a nuclear barrier arrangement could be worked out in the framework of the Reagan peace proposal. And needless to say, working out such an arrangement would involve the most painful concessions by both sides—to each other and to themselves.

For the United States to contemplate providing Israel (or any other country) with the means of using nuclear energy for military purposes would be tantamount to our discarding a deeply held ideology about the peaceful use of the atom and having to face up to the fears on which this ideology was based, however unrealistic the fears may have been. To hold ourselves responsible for opening the nuclear Pandora's Box, even though it never has been closed, is an agonizing thought in the minds of US policymakers and millions of Americans. All this may be based on a myth, but myths embedded in human minds become "realities" that are extremely difficult to dislodge.

In addition, the United States was mainly responsible for the birth of Israel and for its emergence as a progressive democracy in the midst of undemocratic Arab neighbors, and to contemplate its offspring going off on its own into an uncertain and dangerous future, would have to be a fearful prospect. This especially would be the case for a large portion of the American Jewish community, which has wielded great influence on the shaping of Israel and on the US attitude toward Israel. As for many a possessive parent, as difficult as it may be to deal with a grown child whose behavior the parent still wishes to control, it is even more difficult to accept the idea of the child behaving like an independent and equal adult.

As for Israel's required concessions, to contemplate relinquishing the West Bank to Palestinian autonomy and possibly giving up the settlements there would be, in a word, agonizing. To give up hopes of incorporating the biblical territories of Judea and Samaria would cause widespread anguish among Israelis having great historical affinity with these areas.

Knowing in their hearts that real peace with the Arab world is but a distant prospect at best, many Israelis would find it exceedingly painful to accept the Reagan peace proposal at face value. There would be a great reluctance to give up something so concrete as territory gained through the sacrifices of war for a promise so ephemeral as peace.

The concessions required of both sides to reach a compromise agreement would seem almost impossible of attainment, except for one factor: if an agreement, which ostensibly provides peace, is *not* reached, the alternative, in all probability, is more wars. On this basis, the agonizing concessions required to reach agreement based on a nuclear barrier must be weighed against the agonies of still more wars, one of which might prove to be Israel's undoing were the Soviet Union to intervene on behalf of the Arabs.

The price of peace, then, must be weighed against the price of war, and under the conditions of a nuclear barrier, the price of peace might be high indeed; for in many ways, Israel would remain a garrison state were Arab hostilities to persist despite the "peace," although it no longer would have to remain in fear of Arab invasion. But behind its nuclear wall against war, Israel could at least have confidence in its ability to survive a future that otherwise would be perilous indeed. ◧

Sam Cohen, a physicist, is the author of The Truth about the Neutron Bomb *and numerous other books and articles on weapons systems. He contributed the chapter "Rethinking Strategic Defense" to the Reason Foundation book* Defending a Free Society, *and he is writing a book that includes a full technical-military discussion of the nuclear wall against war.*

THE GREAT DEPRESSION, SO-CALLED

Could millions of businessmen have been "depressed" for 12 years?

BY MARK HENDRICKSON

War is peace. Freedom is slavery. Ignorance is strength." These grim and glib mottoes of the Ministry of Truth in *Nineteen Eighty-Four* were George Orwell's way of warning us that totalitarian planners try to control mental processes as a part of their overall program to control physical actions.

The deliberate misuse of language for political purposes is probably as old as language itself. But as the specific tool of socialist thought, its origins can be traced to the 19th century, when the French writer Pierre-Joseph Proudhon raged that "property is theft" and Karl Marx taught that the way to a stateless society is to give all power to the state. Ever since then, socialists have tried to redesign language with every bit as much zeal and dedication as they have poured into efforts to redesign society.

Writers, intellectuals, and politicians with the welfare of the collective in mind have usurped certain key words in our everyday vocabulary and endowed them with new significations that distort facts, obfuscate issues, and deprive the advocates of liberty of some of the very verbal

tools that, in their original meanings, would be employed to rebut collectivism. This perversion of language, the emerging Newspeak of the 21st century, has already vitiated the words *liberal, progressive, reactionary, inflation, money, rights*, and numerous others.

One of the most egregious politicized abuses of the English language ever to come into popular usage is *the Great Depression*, used to describe the economic debacle and human suffering that commenced in 1929 and dragged on until 1941. In the latter year, Franklin Roosevelt found a way to replace the suffering caused by unemployment with the suffering caused by death, maiming, and separation from loved ones.

Before 1929, general financial convulsions and business contractions had been called panics. Then, as now, these panics were precipitated by central governments' monetary policies. In 1929, Herbert Hoover decided that he didn't want to be another in a line of American presidents to have presided over a panic, so he applied a less shrill label to the phenomenon. In what seemed like a clever public-relations ploy at the time, he explained that businessmen were simply depressed. Of course, the fact that the "depression" persisted for 12 years ensured that subsequent presidents would go to great lengths to avoid being associated with that stigmatized term, and so "recessions" were born.

(There is no essential difference between a "depression" and a "recession." Both terms were coined by political interests for purely cosmetic reasons—particularly to draw attention away from how their own interventionistic policies first cause widespread bankruptcies and unemployment and then impede the natural adjustment processes of a free market from correcting the disequilibria.)

If we think about the enduring tag "the Great Depression," we realize that what it suggests is that all of the economic stagnation and consequent human suffering of that unhappy period was caused by a mass neurosis that afflicted American businessmen for 12 years. Of course, who wouldn't get a little depressed as a result of the Federal Reserve contracting the money supply by more than 30 percent in only four years, after having pursued an inflationary credit policy in the years prior to 1929? And who could be very joyful when the staggering Smoot-Hawley Tariff Act of 1920 virtually suffocated the import and export market? Nor were the huge tax increases of 1932 designed to console entrepreneurs.

One of the great myths of history is the belief that Hoover was responsible for the severity of the "depression" because of his adherence to a laissez-faire policy. Hoover was indeed culpable—but for his radical interventions and his utter disdain for laissez-faire (which he referred to as "reactionary economics"). His interventionist policies—including maintenance of high real wages, creation of public-works programs, establishment of farm-price supports, increasing the fiscal burden of government, promoting an inflationary monetary policy, and expanding government aid to and regulation of agriculture and industry—would lead economist Murray Rothbard to dub Hoover "the founder of the New Deal in America."

When FDR took over, replacing Republican intervention with Democratic intervention, he worked overtime at playing the alphabet game, dictating to producers through the NIRA, AAA, PWA, etc. (the American equivalent of the five-year plan). Businessmen couldn't really be blamed if their "depression" deepened into catatonia. The outlook brightened temporarily when the Supreme Court terminated the NIRA and AAA (while leaving intact numerous other mischief makers) and unemployment dropped to "only" 16.9 percent in 1936. But in that year the National Labor Relations Act went into effect, removing unions from the jurisdiction of courts enjoined to weed out any hint of collusive activities by business owners.

The results of the NLRA were immediate and predictable, as a wave of strikes, walkouts, closings, bankruptcies, and unemployment swept over the United States. This must have depressed the many entrepreneurs whose businesses were ravaged, not to mention the millions of workers who were thrown out of work. And just so those greedy capitalist business owners wouldn't soon forget that government was in control, Congress passed the Fair Labor Standards Act of 1938, thereby establishing a minimum wage and ordering employers to shorten the work week without cutting pay, thus further raising costs and increasing unemployment.

The deliberate misuse of language for political purposes is probably as old as language itself.

Karl Marx taught that the way to a stateless society is to give all power to the state.

Now there is no doubt that all of these developments were quite depressing, but there is an obvious common denominator involved here. The massive suffering of the "depression" years—the widespread unemployment, bankruptcies, stagnation, and deprivation—were the direct result of actions by those in power who, either ignorantly or arrogantly, believed that statist policies could improve upon the laws of economics. It wasn't the entrepreneurs who caused the economic catastrophe of the 1930s. It was the Federal Reserve System, the presidents, the members of Congress, the courts, and the government bureaucracies that initiated all the harmful actions enumerated above. A series of crippling policies was inflicted on the American public by those who held the reins of political power.

The age-old word used to describe the harsh treatment of citizens by states is not *depression* but *oppression*. So it is proper that the sad events of 1929-1941 be known in the history books as "the Great Oppression." ◻

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SIGNAL VICTORY FOR THE FIRST AMENDMENT?

The latest broadcast technology promises to demolish the creaky rationale for TV and radio regulation.

By Joseph P. Martino

When Congress passed the Radio Act of 1927, the US airwaves became "public" property. This scarce resource, Congress concluded, must be conserved and regulated for the benefit of all. The Federal Radio Commission (which evolved into the Federal Communications Commission) was set up to allocate frequencies, issue licenses, and set technical standards. Thus ended a several-decades-long era during which there had arisen a market for use of the airwaves. And thus, too, arose a system of extensive state control of telecommunications, a system whose present rationale is still based on the principles that motivated passage of the 1927 act.

Technological developments, however, now occurring at breakneck speed, have all but completely undermined the rationale for airwave regulation. A profusion of new and refined technologies—among them microwave and low-power transmission, cable, and fiber-optics, for example—has shown the antiquity of regulatory principles and their inapplicability to today's telecommunications world. One emerging technology that promises to deliver an especially powerful blow to the very foundations of communications regulation is direct-to-home satellite television. (This technology is commonly referred to as "direct broadcast satellite" TV. This latter term, however, is reserved by those in the industry and by regulators for a certain type of direct-to-home satellite TV, one that satisfies specific technical criteria. Since this distinction is not important from a nontechnical point of view, I shall throughout this article use the term "direct broadcast satellite" (DBS) TV to refer to all direct-to-home satellite TV service.)

The advent of DBS television, which went into commercial operation only a few months ago, will force serious rethinking of several fundamental aspects of regulation, including those concerning freedom of speech and antitrust. That DBS television presents such a bold challenge to the prevailing regulatory rationale follows from how DBS works.

You may have seen a satellite "dish" antenna, measuring 10 to 15 feet across, sitting in someone's back yard or seen an advertisement for one in your local newspaper. These, however, have nothing to do with DBS. These large, costly dishes are intended to receive signals from existing low-power satellites. And the signals in question were never intended to be received by individual homeowners. Instead, these signals are meant to deliver programs to local TV stations and cable-TV systems; to deliver pay-to-view programs to hotels, motels, and cable-TV systems; and to transmit unedited programs from on-the-spot locations to the TV networks' headquarters.

The legality of intercepting these signals with backyard dishes—an estimated 50,000 are now in use—is uncertain. Some communications lawyers refer to such reception as "piracy." Others argue that it's impossible—and wrong—to prevent people from receiving a signal that literally "falls on their doorstep." In any case, these signals have nothing to do with DBS.

By contrast, DBS is intended from the beginning for individual homeowners. Direct broadcast satellites use more-powerful transmitters—about 200 watts, as opposed to the roughly 20 watts used by existing TV satellites, though the use of lower-wattage transmission (in the 55- to 60-watt range) has recently been discussed. This allows the homeowner's receiving dish to be much smaller—about three feet (one meter) in diameter—and to be mounted on rooftops and conventional TV masts, rather than anchored in the ground. The cost for the DBS dish and its electronics is about $600, compared with an average $10,000—and as much as $50,000—you would pay for the 5-meter dishes used to intercept conventional satellite TV signals.

A direct-broadcast satellite, like other satellites transmitting TV signals to earth, is equipped with "transponders." These receive the original signals sent from an earth station, amplify the signals, then rebroadcast them back to earth. Also like existing communications satellites, direct broadcast satellites are in geosynchronous (or geostationary) orbit—that is, they take exactly 24 hours to circle the earth and hence appear to be fixed in the sky. Therefore, a DBS dish doesn't need to track the satellite. It can be fixed in position and will always point at the spot in the sky where the satellite appears. Moreover, the various DBS operators who have yet to start up service hope to "collocate" their satellites—that is, place them in the same orbital area, only miles apart—so if your antenna can "see" one of the satellites it can see the rest as well.

By November 1982, the Federal Communications Commission had granted "construction permits" to eight companies that had applied for authority to establish direct broadcast satellites in orbit about the earth. Satellite Television Corporation (STC), a subsidiary of the federally chartered Communications Satellite Corporation (Comsat), was the first applicant and had proposed an initial operating date of late 1985.

Then, early in 1983, the FCC granted permits to additional applicants. At least

PHOTOGRAPH COURTESY OF SATELLITE BUSINESS SYSTEMS

two of these proposed to use existing low-power satellites to provide DBS services, starting in 1984. Under pressure from this competitive threat, STC decided to advance its initial operational date to some time in 1984. By late 1983, one company had already started up DBS service—United Satellite Communications, Inc. (USCI), of New York City.

What USCI and the DBS hopefuls primarily aim to do is tap the market of the 20 million to 30 million American households that are unlikely ever to get cable-TV service. In their first 5 years of operation, the DBS providers project a total of 4-5 million subscribers to their services.

To see just how and why DBS is going to undermine telecommunications regulation, it's first necessary to understand the origins of such regulation. When the Italian engineer and inventor Guglielmo Marconi constructed the first "wireless" communications device in the 1890s, he didn't need anyone's permission to put it "on the air." But by the second decade of this century, radio was widely used for maritime and naval purposes. Messages about maritime hazards were being interfered with, because any station could operate on any frequency. At the urging of the US Navy, Congress passed the Communications Act of 1912. This set aside certain frequency bands for commercial users and others for amateurs and required that all transmitters be licensed.

This, in itself, did not create a problem. It simply meant that individual operators could claim an operating authority within a band of frequencies (as with amateurs or CB operators) by obtaining a license. In effect, licensed operators "owned" the frequency. Indeed, by the 1920s, as available frequencies were appropriated by licensed operators, a market in licenses grew up. People bought and sold licenses and began to treat them much as they would treat deeds to real property. This arrangement came to an end when Congress nationalized the airwaves in the Radio Act of 1927.

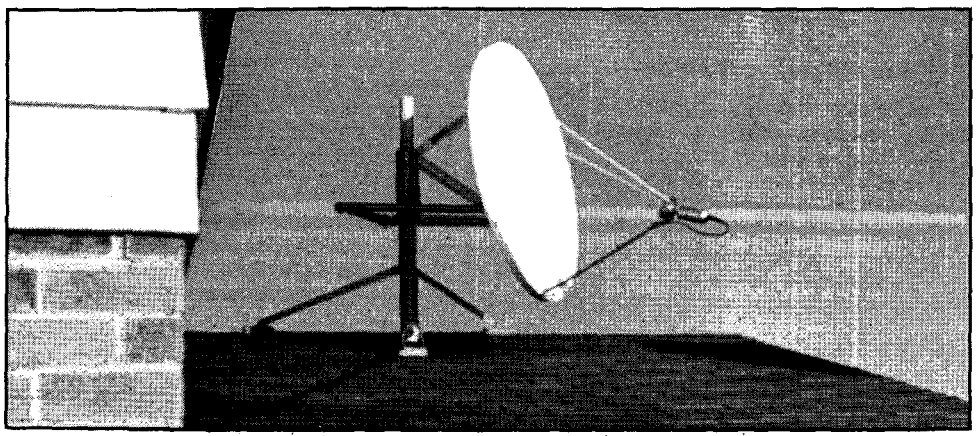
The basic principle and rationale of the 1927 legislation is that the airwaves cannot be privately owned. Following from this is the principle that since radio frequencies are scarce, they must be allocated to specific users (and therefore denied to other specific users). The final principle is that since specific users have been allowed to use "public" property, their use of it must be regulated.

The Federal Communications Commission (FCC)—like its predecessor, the Federal Radio Commission—took seriously its responsibility to regulate the use of the airwaves "in the public interest." It concluded early on that radio would destroy local newspapers and, therefore, that radio stations should be required to provide the cohesive force in the community that the newspaper had done. This meant that stations should be primarily local in nature: they should broadcast local news, advertise the wares of local merchants, and provide a forum for local discussion. This was the concept of "localism," which governed not only the early allocation of radio frequencies but eventually that of TV channels as well.

Under the doctrine of localism, the FCC restricted the range of radio and TV stations, in order to assure that each region of the country would be served by its own station, free from the threat of competition from stations in other areas. This resulted in reducing the profits of stations and in creating large "underserved" areas, where people could receive only one or two stations.

In addition, broadcasters were to present "both sides" of controversial issues and provide opportunities for rebuttal of any material they carried (the "fairness doctrine"). They also had to give "equal time" to all qualified candidates for public office. Radio and TV stations also had to carry a certain amount of "public interest" programming, which in practice means programming that is—in the judgment of the regulators—"good for" the public but which has such a small audience no advertiser will pay for it.

It should be evident that all these doctrines and requirements, if applied to the printed media rather than the electronic media, would be a violation of the First Amendment.



In November last year, United Satellite Communications, Inc., started the first direct-to-home satellite TV service in the United States. Using rooftop dish antennas like this one (which cost no more than a typical TV set), households in 26 states—roughly the eastern half of the country—can receive USCI's 5-channel broadcast.

Perhaps the first conflict between DBS and regulation will come in the area of localism. The so-called footprint of a direct-broadcast satellite—the region over which a satellite's signal can be received by a homeowner's dish—can readily be half the nation, and most operators are planning their footprints to cover essentially a whole time zone. It would make no economic sense to restrict the size of the footprint to a single metropolitan area. In fact, among the virtues of DBS is its ability to bring broadcasting to rural areas now "underserved" by conventional TV and too thinly populated for cable TV. Another virtue is its ability to aggregate a "thin" audience over a wide geographic area. For example, there may not be enough Shakespeare lovers in a single city to justify frequent broadcast of the bard's plays, but there might well be enough of them in a whole time zone to make them a worthwhile audience for frequent "specials."

To impose localism on DBS would destroy it, and the service is politically too popular for that to happen. But if DBS is freed of the localism requirement, what about terrestrial TV—can TV compete effectively with DBS when it labors under the burden of localism? And if not, will the FCC remove the burden? Either way, the regulators are faced with a dilemma of their own making.

A second area of conflict between DBS and regulation involves the First Amendment. The new technology poses a whole host of problems that simply wouldn't exist if the electronic media had First Amendment protection.

Users of the airwaves are classified into different categories for regulatory purposes. For instance, "common carriers" are regulated on rates but not content; "broadcasters" are regulated on

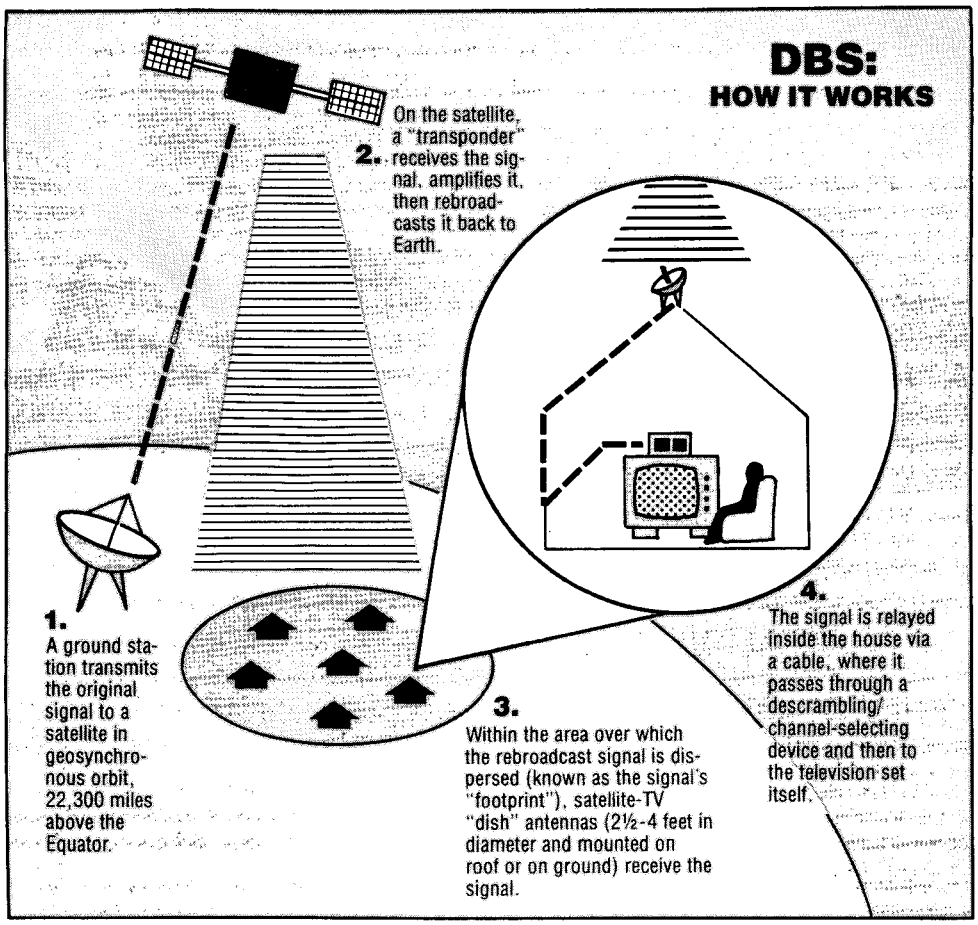
PHOTOGRAPH COURTESY OF UNITED SATELLITE COMMUNICATIONS, INC.

content but not rates. If a DBS provider produces its own programming—as Satellite Television Corp., a Comsat subsidiary planning to start up DBS service later this year, proposes to do—is it a broadcaster? If a DBS provider simply carries the programming of others, as Western Union proposes to do, is it a common carrier? If it does some of both, what is it then? And in that case, should the DBS operator be regulated on rates or content, both or neither?

This problem is particularly acute in the case of DBS, because the so-called early entry operators—those who propose to use existing low-power satellites to begin broadcasting instead of waiting to construct their own more-powerful ones—plan to lease transponders on satellites in what the FCC calls the "fixed satellite service." The operators of these satellites, which have been licensed by the FCC as common carriers, will simply lease their satellites to the DBS services. Who gets regulated—the broadcaster? the satellite owner? And on what—rates? content? And how does that differ from the way those operators who build and own their own satellites will be regulated?

Direct broadcast satellite TV signals are intended to be received directly by individual viewers. However, it's likely that cable-TV operators will also want to carry DBS programming, and so will so-called satellite master antenna TV (SMATV) operators. (In an SMATV system, a satellite dish receives signals and distributes them over a private mini-cable-TV system in apartments, condos, office blocks, housing developments, mobile-home parks and so on.) Will these redistributors be regulated? If so, then, by the same logic, would individual homeowners who also receive the signal be candidates for regulation, as well? If not, then why regulate the satellite operators, who also "distribute" the signal to the homeowner? And if they are to be regulated, will such regulation be of rates or of content—or of both?

Some DBS programming will be free to the viewer, since it will either be advertiser-supported or paid for by the broadcasters (religious broadcasts, for example). Some, however, will be similar to pay-TV: the signal will be scrambled, and only those who have paid for the program (and the unscrambling device) will receive it. Some DBS operators plan a "monthly" payment for their programs, such as cable systems now use. Others plan "pay-per-view," using so-called addressable decoders. In either case, if you don't pay, you don't see the program. And this, too, has implications for regulation: will the content of DBS pay-TV programs be regulated just as is the content of today's terrestrial TV?


DBS:
HOW IT WORKS
1. A ground station transmits the original signal to a satellite in geosynchronous orbit, 22,300 miles above the Equator.
2. On the satellite, a "transponder" receives the signal, amplifies it, then rebroadcasts it back to Earth.
3. Within the area over which the rebroadcast signal is dispersed (known as the signal's "footprint"), satellite-TV "dish" antennas (2½-4 feet in diameter and mounted on roof or on ground) receive the signal.
4. The signal is relayed inside the house via a cable, where it passes through a descrambling/channel-selecting device and then to the television set itself.

Part of the argument for content regulation arises from the fact that radiowaves are ubiquitous—they literally fall on your doorstep. The argument goes that you should have some control over what enters your house, and since you can't shut out the radiowaves, what goes over them should be regulated. But this argument falls flat when the programming is scrambled and you must *pay* to see it. Why should it be regulated any more than is a book or a newspaper that you must buy in order to read?

The possibility of "teletext" also raises regulatory issues. Television pictures are transmitted at the rate of 30 per second. Each is a still picture, but the pictures are replaced so quickly that they provide the illusion of motion. In between the individually transmitted pictures is the "vertical blanking interval," in which no signal is sent. From the standpoint of TV transmission, this is simply a wasted resource.

Teletext is a scheme for using this blanking interval to send text and graphic information by broadcasting such data as a series of "pages," carousel fashion. A decoder in your set can grab this information and display it on the screen, instead of displaying the regular program. You select one page out of the sequence to be stored in the decoder and displayed on your screen as long as you want it.

Teletext amounts to an electronic newspaper. It can carry the same news as a regular paper, but with both more depth and more breadth, since not everything will be delivered to everyone. You choose what you want to see and pay for only those portions for which there is a charge. Operators of DBS services will undoubtedly want to include teletext among their services, since it will increase their revenues. Their geographically widespread audiences make teletext even more desirable for them than it is for terrestrial TV broadcasters. The regulatory question that emerges is, will teletext be regulated when the very same news and advertisements appearing in printed newspapers are unregulated?

The original reason for denying First Amendment protection to radio broadcasters was that frequencies were "scarce" (never mind that newsprint, ink, and printing presses are also economically "scarce"). Direct broadcast satellite TV yanks the props right out from under that argument. If even half the current DBS applicants actually get satellites in orbit and operating, the

DIAGRAM BY REASON MAGAZINE

typical homeowner will be able to choose among 10 to 15 channels. That is more channels than there were daily newspapers in this country when the First Amendment was adopted.

During the infancy of the broadcast industry, when there were only two or three TV stations in a town, the government could get away with the scarcity argument (even though it was the FCC, through its localism doctrine, that had created the scarcity in the first place). But as DBS services get off the ground, the scarcity argument will become an empty one. Indeed, DBS may provide the final push necessary to get First Amendment protection for the electronic media.

There is yet another area where DBS will conflict with regulation—antitrust law. Antitrust is a peculiarly American superstition. Other national governments think that big companies are good but have to be fostered by the state, so they force little companies to merge or even nationalize them all to create one big company. In the United States, by contrast, conventional wisdom says that big companies are bad, but they just grow naturally, while little companies have to be fostered by the government. So the authorities break up the big companies and keep the little ones from cooperating with each other. This superstition is likely to hamper the development of DBS.

As I noted earlier, DBS operators would like to collocate their satellites so that, in order to receive all the services, a person need buy only one dish and point it at only one spot in the sky. In addition, they would like to standardize their scrambling procedures so that a person needs only one unscrambler. (You would pay for a different unscrambling code for each DBS service, but that would be a lot cheaper than buying a separate "black box" for each one.) Moreover, DBS operators would like to have a standardized dish, so no matter which one you buy, you can still receive all the operators' signals. But if they were to try to agree on some standard, they might be accused of violating the antitrust laws. This despite the fact that a standard would actually *increase* competition, because DBS subscribers could use their equipment to switch easily from one service to another.

Looking farther ahead, from both an engineering and economic standpoint it makes no sense to have several individual satellites orbiting near each other in order to achieve collocation. And, indeed, by the 1990s it will be technically possible to launch a "space platform" that could have its own power supply and attitude-control and station-keeping equipment; it could also carry many more transponders than an ordinary satellite. For each DBS operator, such a facility would be cheaper than having its own individual satellite, since the overhead would be spread over more transponders—the devices on satellites that receive signals from terrestrial stations and retransmit them to DBS subscribers—and the total number of spare transponders would be smaller than if each individual satellite had to have at least one.

A consortium to build and launch such a platform, however, might be considered anticompetitive. It might be seen, in the eyes of regulators, as reducing "potential competition" among those who participate in the venture. Or, it might be seen as freezing out those who don't participate, since the nonparticipants would have higher operating costs. In either case, the obvious benefits to the viewer, flowing from the producers' lower costs, might be lost if antitrust law blocks DBS operators from such a cooperative enterprise.

By a fortunate coincidence, the collision between DBS and regulation comes at a time when there is a strong deregulatory trend in government. The successful deregulation of the airlines, for instance, has caused people to rethink their ideas about regulation. Many of the proposals for reopening the airwaves to market forces—such as levying user charges or even auctioning off frequencies—have moved from the academic journals into policy discussion in Washington.

While denationalizing the airwaves is probably still a long way off, there has been notable progress. In 1981, the FCC eliminated many of its regulations on radio programming, giving station owners a great deal more freedom. (The limit of 18 minutes of commercials per hour was removed, for instance, as was the requirement that stations air a specific minimum amount of news and public-affairs programing.) The FCC justified its action on the grounds that with so many radio stations in operation (about 10,000 nationwide), the industry is highly competitive and doesn't need regulation. The FCC ruling was challenged in court, but in May of 1983 the FCC was upheld by a federal appeals court.

Heartened by this success, FCC chairman Mark Fowler is moving to partially deregulate TV. Under a current proposal, the so-called 5-5-10 rule would be abolished. (Under this rule, TV stations are required to devote at least 5 percent of their programming to news and public affairs, 5 percent to local programming, and 10 percent to nonentertainment programming.) The proposal would also eliminate an existing requirement that TV stations make extensive public surveys to determine the kind of programming their viewers want (a similar requirement for radio stations was lifted in 1981). The reasoning behind the deregulatory proposal is that in a competitive market, TV stations can be counted upon to try to satisfy their viewers without the burden of FCC requirements.

The FCC has also proposed abolishing its current regulations requiring TV stations to keep detailed program logs—radio stations were relieved of this burden in 1981—and to limit broadcast of commercials to 16 minutes per hour. (The FCC had found that competitive pressures on radio stations kept the amount of advertising well under the limits allowed by regulation, hence the regulations were unnecessary. The same presumption holds for TV.) As of this writing, these proposals are not final, but they indicate a strong trend.

If the FCC were to follow its original regulatory practices, it would strangle DBS just as it strangled cable TV when cable didn't fit the regulatory pattern of the time. Fortunately, DBS has the backing of some major corporations—RCA, Western Union, and CBS among them—and government agencies (think of all the satellites NASA will launch), whereas cable TV started off as a "mom and pop" activity with no political clout. This means that DBS is unlikely to be strangled. Instead, it will strengthen the deregulatory trend already evident at the FCC.

In addition, DBS may give the final push necessary to get First Amendment protection for the electronic media, since it shows the fallacy of the arguments denying that protection.

Finally, DBS puts one more gaping hole in the already tattered fabric of intellectual justifications for antitrust. Though it's unlikely that American judges and regulators will abandon their superstitions about antitrust solely because of DBS, this new technology might bring some more rationality to the subject.

Direct broadcast satellite TV is not just another technology that will bring some benefit to consumers, welcome as that might be. It also promises to be a significant catalyst in the cause of freedom, certainly in the United States and possibly in other countries, as well. ◧

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BREWED UP BOYCOTT

What the AFL-CIO doesn't tell you about Coors

By Kelly G. Ross

In the first half of 1983, 32½ million gallons of beer flowed into Oregon wholesale warehouses from breweries in America and 24 other countries. Not one drop of this sudsy stream, however, was produced in the world's largest brewery, that of the Adolph Coors Company in Golden, Colorado. While Coors has had the pleasure of seeing its product airlifted to Washington, D.C., by Presidents Eisenhower and Ford and featured in the top-grossing movies *Smokey and the Bandit* and *E. T.*, it has been disappointed in its attempts to enter the Oregon market. Due to an obscure section of a 60-year-old law—kept in place by pressure from organized labor—Oregon has the peculiar distinction of being the only state in the nation where it is *illegal* to place Coors on retail shelves.

The Coors name does not appear in Oregon's statutes, but Coors is one of only two American beers affected by a provision of the Liquor Control Act stating that only "pasteurized malt beverages in brewery-sealed packages" may be sold for consumption. (Coors's companion victim is Hamm's Draft Beer.) The pasteurization of beer, like many other beverages, is for the purpose of destroying microorganisms and is usually accomplished by heating the beer after bottling or canning at 140 degrees Fahrenheit for at least five minutes.

Coors is excluded from the Oregon market because the company concluded in 1959 that heating beer to extreme temperatures has a detrimental effect on its taste. An alternative procedure was developed by Coors scientists in which three separate sets of micropore filters are used to remove microorganisms and solids prior to packaging. A 1978 study by Oregon State University microbiologists confirmed the effectiveness of the process when it stated "that the samples of Coors beer analyzed were essentially the same in microbiological quality as the Oregon retail samples." In some cases their study found Coors samples to be actually superior in purity to samples of two major brands.

For all the hoopla on the issue, though, almost 25 percent of the beer drunk by Oregonians is unpasteurized. This paradox is explained by the fact that keg beer does not undergo heat purification by any brewer, nor is it required. Unlike milk, which is pasteurized for health considerations, beer is heated to kill microorganisms that can give an off taste or odor. Draft beer, therefore, must be kept

PHOTOGRAPH BY BILL ZELDIS

cold to prevent the bacteria from flourishing and altering its quality.

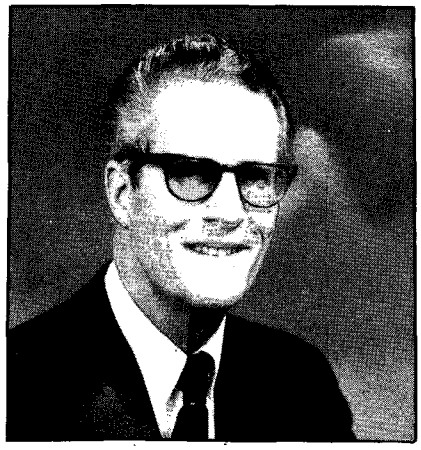
Although there is no logical reason for its existence, attempts to amend the pasteurization requirement to allow the sale of Coors in Oregon have thus far been unsuccessful. In 1979 the Oregon Liquor Control Commission (OLCC) adopted an administrative rule interpreting pasteurization to include other processes producing the same microbiological quality as heating. The action was invalidated eight months later, however, when the Oregon Court of Appeals ruled—in a suit brought by the Joint Council of Teamsters—that the commission had exceeded its authority.

Senate Bill 268, with provisions similar to those of the invalidated rule, was then introduced in the 1981 legislature at the request of the OLCC but died in committee. Again in 1983, legislation to permit unpasteurized beer was introduced as Senate Bill 358. Although it was reported out of committee, it was defeated 20-8 on the senate floor.

In each of these efforts, opposition to Coors was not from doctors, public-health officials, or even other brewers trying to protect their market share. Without exception, lobbying against change in the pasteurization requirement was limited to representatives of organized labor, and they were not reticent about making their motives plain. Oregon AFL-CIO president Irvin Fletcher said straightforwardly in a committee hearing on S.B. 358, "The primary concern to me and to the members of the Oregon AFL-CIO is the ideology that follows Coors beer wherever it is sold."

Union antipathy toward the company stems from a 1977 strike at the brewery, which eventually ended in December 1978 when 71 percent of the employees voted to decertify the union. Though the strike ended more than five years ago, a nationwide boycott of Coors that started during the walkout still remains and has been endorsed by many unions and several groups of various sorts. Student activity centers at several branches of the University of California, along with some women's organizations, gay bars, and Hispanics, have all stopped serving and drinking the company's products.

Unlike most major American corporations, in which labor and management strive to maintain a distant, antiseptic relationship, Coors has a long tradition of employee relations reflecting the strong personal imprint of the company's current management. In 1934, a time when organized labor was viewed with suspicion and hostility by many Americans, Adolph Coors, Jr., *invited* the brewery-workers union to represent his growing number of employees. Fifty years later, his two sons have a slightly different perspective. "Unions are a result of poor management," says board chairman William Coors. "If management is properly concerned with the needs of the workers—not just the material needs, but with health and spiritual and philosophical needs—then a union isn't needed." Brother Joseph, the company president, has said, "I honestly see very little appropriate role for unions in this day and age." It is such displays of candor and the union's defeat in the decertification election, more than any alleged abuse of employee rights, that is responsible for the boycott of Coors.



JOE COORS: "I honestly see very little appropriate role for unions."

BILL COORS: "Unions are a result of poor management."

Support for the boycott by many besides union members can be similarly explained by the Coors brothers' outspoken views and strong personal commitments to conservative causes. Joe first became a villain to the Left in the 1960s when, as a popularly elected regent of the University of Colorado, he defended faculty members against student radicals, led a successful effort to expel the SDS (Students for a Democratic Society) from campus, and bankrolled an "alternate" student newspaper. In 1975, the Senate Commerce Committee vetoed his appointment by President Ford to the board of the Corporation for Public Broadcasting. Cited as a conflict of interest was his ownership of Television News, Inc., which he created to provide news stories that he believed were ignored or slanted by the major networks.

Both brothers contribute heavily to conservative foundations, organizations, and candidates. An indication of how widely their activities have been felt was the comment of the former Russian film director, Efraim Sevela, now a refugee. When asked to address the faculty and students at the University of Colorado, he agreed on condition that he be introduced to Joe Coors. Why Coors? "I have heard about him in the Soviet Union," Sevela replied. "All the Communists hate him. He must be an unusual man."

Because of the Coors brothers' political views, it's not surprising that many liberals have welcomed a campaign to boycott Coors. However, not only is there substantial evidence that many of the charges leveled at Coors have been enormously exaggerated, but, ironically, the company has in fact adopted policies that liberals would consider progressive and enlightened.

For example, Coors has been accused by boycotters of discriminating against women. In fact, there were almost no women production workers in the brewery before 1971, and by 1975 only 7 percent of the company's work force was female—not an unusual record in the heavily male-dominated brewery industry. In the past nine years, however, Coors has made dramatic changes. The percentage of women employees has tripled to 21 percent, with women well represented at all levels of the company.

In its most recent Equal Employment Opportunity Commission (EEOC) statement, Coors could report that 10 percent of its officials and managers were women, compared to a national average of 7 percent. Some 26 percent of its technicians (mainly skilled laboratory workers) were women, compared to a 17 percent national average, and 13 percent of its laborers (mainly unskilled) were women, compared to a national average of 7 percent. It's little wonder that Gerry Bean, president of the Colorado Women's Political Caucus, has written, "It is my opinion that Coors is one of the more progressive employers in the state of Colorado."

It is also interesting that from 1976 to 1982, the Adolph Coors Foundation contributed over $420,000 to 31 different

women's organizations, leading the executive director of Colorado Women in Business Enterprises to say, "Adolph Coors Company is one of the key supporters financially of women's programs in the Denver area."

Coors has also been charged with discrimination against gays primarily for two reasons. The first is that one time, the company contracted with a private polygraph company that asked employees such questions as "Are you a homosexual?" However, Joe Coors said that he did not know that this and other questions about employees' private lives were being asked, and they were swiftly eliminated from the polygraph questionnaire years ago.

The second reason is that the Coors Company Personnel Policy says that one of several grounds for discharge of employees is "conduct on company premises which violates the common decency or morality of the community." Union official James Silverthorn has contended that this policy "is aimed at gays."

Yet Coors was the first American brewer to prohibit in writing any discrimination because of sexual preference. The *Advocate*, a national gay newspaper, investigated the issue thoroughly in 1977. After interviews with Coors officials, gay employees, union leaders, and others, it concluded "not to recommend a continuation of the national boycott for the present." In the same article, the *Advocate* also chided the AFL-CIO for not having any record of support for gay rights.

Another charge against Coors has been racial and ethnic discrimination. Yet since the 1977 strike, according to Coors vice-president Gerry Kaveny, "We have improved our affirmative action goals and timetables since many strikers were permanently replaced with women and minority persons, which may have otherwise taken years to accomplish."

The record bears this out. Coors's most recent EEOC tabulation reports that the percentage of minorities in the company's work force is 14 percent, compared to a metropolitan Denver average of 13.5 percent. For officials and managers, the top level, the figures are 6 percent, compared to a national average of 3 percent. For technicians, Coors's figures are 9 percent, compared to an 8 percent national average. And for craftsmen, Coors employs 13 percent minorities, compared to a metropolitan Denver average of 12 percent.

Coors has been criticized vehemently for its use of polygraph examinations in the selection of new employees. A report by California PIRG (Public Interest Research Group), a Nader-associated organization based at the University of California, charged that the practice "probes abusively into individuals' private lives," and it pointed out that the unreliability of polygraph results has been extensively documented.

But one wonders how sincere such criticism actually is. After all, about 20 percent of the companies on the Fortune 500 also make use of polygraph examinations, but the Coors boycott organizers seem curiously indifferent to this fact. David Sickler, director of the AFL-CIO's boycott campaign against the company, made some revealing comments in the following exchange with Mike Wallace of *60 Minutes*:

Sickler: As long as Coors continues to use that lie-detector, we're convinced it has the potential of abuse, whether it's being abused or it's not being abused. The point is they still have the right to give the lie-detector test. They still impose it on people.
Wallace: So—so do all kinds of companies, and you're not boycotting them.
Sickler: No, we don't. And—and many of those companies have union contracts, Mike.
Wallace: That really is the nub of the issue. They got—
Sickler: That's right.
Wallace: They got rid of the union.
Sickler: That's right.

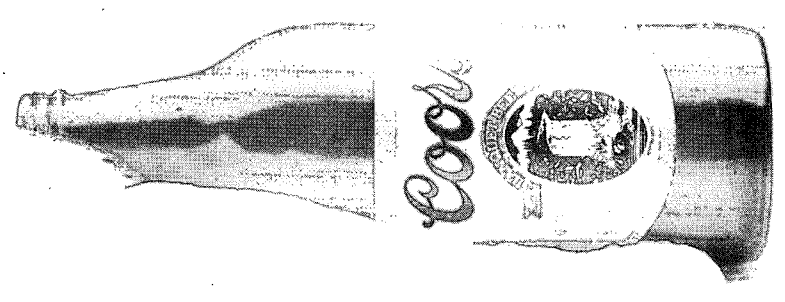
Indeed, polygraph use became an issue only after the strike. For many years, Local 366 in its collective bargaining agreement agreed to the use of the polygraph in resolving truth issues in arbitration cases and investigations of theft and sabotage.

It's difficult to get a clear measurement of the boycott's impact on Coors because of a marketing battle and shakeup that hit the American brewing industry during the 1970s. But it is quite clear that the entire state of Oregon, with potential sales of at least 80,000 barrels, has been denied Coors through the efforts of the AFL-CIO and Teamsters. The latest round in the battle for the state, waged in the legislature over S.B. 358, is a lesson in how supposedly responsible elected officials can be coerced or duped into complying with the wishes of organized labor.

Introduced in February, the bill had its first public hearing on March 2, 1983, before the Business and Consumer Affairs Committee. The sole witness offering testimony in favor of changing the pasteurization requirement was Richard Allen, a representative of Coors. Allen downplayed the fact that the legislation would affect mainly the Adolph Coors Company, choosing instead to discuss the bill strictly on its merits. His main point was that under the current law, no brewery could change its purification process and still sell beer in Oregon even though the change might prove to be less costly or improve quality.

Rising to present the case against S.B. 358 was Oregon AFL-CIO president Irvin Fletcher. His primary targets were the groups to which Coors had chosen to contribute funds. "Mr. Coors, the company, and the Adolph Coors Foundation are major contributors to ultra-conservative groups, ranging from the Washington-based Heritage Foundation, which Mr. Coors brought into existence with a quarter-million-dollar grant from the company, to the John Birch Society, which Mr. Coors has personally contributed to for many years," charged Fletcher. "Their flagrant abuse of political power through massive campaign contributions has not only reached epidemic proportions, but has also had other unfortunate effects."

The "other unfortunate effects" refers to a purported 3,000-page outline prepared by the Heritage Foundation for President Reagan. According to Fletcher, the document proposed loyalty/security programs, congressional internal security hearings, domestic spying, and contained "a list of domestic security targets including clergymen, students, businessmen, entertainers, labor officials, jour-



nalists, and government workers." For extra drama, Fletcher looked around the room and said, "Under such a proposal, 90 percent of the people here today would probably be targets of the proposed domestic spying program."

In reality, the 3,000-page report of which Mr. Fletcher expressed such fear was published in January 1981 as a 1,093-page book entitled *Mandate for Leadership: Policy Management in a Conservative Administration.* The book, which has some 250 contributors and was a year in the making, deals with every department of the federal government and was described by United Press International as a "blueprint for grabbing the government by its frayed New Deal lapels and shaking out more than 48 years of liberal policies." Herb Berkowitz, Heritage Foundation vice-president, commented on Fletcher's allegations by saying, "While it contains one small section on domestic security [nine pages long], Mr. Fletcher's analysis of those recommendations is far from the mark—and his assertion that we provided President Reagan 'with a list of domestic security targets' is a complete fabrication."

State Sen. Mike Thorne, the sponsor of S.B. 358, had strong words for Fletcher when he had completed his testimony. "Do you feel that denying consumers in Oregon access to Coors beer is a legal means," he asked, "and do you support that means by using our statutes to do so?" Fletcher sidestepped the question by replying that there was plenty of beer in the state for Oregonians without the entry of Coors. Thorne next accused the union leader of "demeaning the credibility of the Oregon legislature" by attempting to pull it into some "long-standing bitter battle that's taken place outside the state between the Adolph Coors Company and organized labor."

On June 15, S.B. 358 was again brought up by the committee and, with only one negative vote, was sent to the floor with a "do pass" recommendation. In the days to follow, three of the state's major daily newspapers carried editorials in favor of the bill. The Portland *Oregonian* commented that "protectionism by pretext is bad public policy no matter what particular interest—or beer—is being served." The paper urged legislators to "deal with the substance, not the suds, of the issue, and remove the Coors prohibition." The Salem *Statesman-Journal* said, "The choice of drinking or not drinking Coors should rest with consumers, and they should not be denied a choice because of some phony, trumped-up excuse." And the Coos Bay *World* sarcastically observed, "To our knowledge, whether or not a firm has union representation is not used to prohibit—or encourage—the sale of any other products in this state."

Despite such support, however, on June 21 the Oregon Senate voted 20-8 to defeat S.B. 358. Floor debate was limited, with only three senators speaking on the issue. Senator Thorne defended the measure, saying that it was difficult for him "to use the integrity of our system to enforce a secondary boycott." Sen. Walt Brown raised a new argument, accusing Coors of using asbestos to filter their beer, and told fellow members, "If you want asbestos in your beer, vote yes on this bill."

While it is true that Coors did use asbestos at one time in its filtration process, the practice was stopped in January 1982. But even when asbestos *was* used, laboratory tests found that Coors beer contained fewer asbestos fibers than any other American beer, soft drink, or bottled water analyzed. A 1975 *Brewer's Digest* article reported that Coors contained approximately 198 asbestos fibers per liter; other American beers had between 635 and 1,145 fibers per liter; soft drinks were measured at 290 fibers per liter; and a 1980 test of Chicago drinking water showed 3,830 fibers per liter.

Sen. Margie Hendriksen rounded out the opposition by saying that passage of the bill would not aid economic development but would add to the state "a beer that's not wholesome." Hendriksen did not supply her definition of *wholesome*, but it's difficult to see why Coors shouldn't come under any conventional usage. In addition, it is one of very few beers in America free of preservatives and chemical additives.

Following S.B. 358's defeat, I wrote to each senator who had voted against the bill, asking for the reasons for the senator's opposition. Only three of the 20 replied, and the answers are quite revealing. Sen. Jack Ripper said that even though "denying private enterprise goes against the beliefs of most Oregonians," after seeing the overwhelming number of votes against the bill he decided to vote "no" to please his "many constituents who had written and phoned."

Sen. Fred Heard based his vote on three points. First, "Oregon does not allow any beer in the state...that has not been pasteurized." This is akin to saying, "I won't change the law, because it's the law." Second, the legislature "has outlawed certain employment and discrimination practices...that are still used by the Coors Company." And third, "in economic times such as these, we do not want to do anything which will have a bad economic effect on those businesses already located in our own state." This contention, however, had been demolished in the committee hearing by Sen. Eugene Timms, himself a beer distributor. Timms convincingly explained that because Anheuser-Busch controls close to 25 percent of the Oregon market, it would *strengthen* non-Anheuser-Busch distributors to have a product that could compete strongly with the leader.

Sen. Dell Isham speculated that the defeat of S.B. 358 "had to do with health considerations and interference by the legislature in the authority of the Oregon Liquor Control Commission." Isham was apparently ignorant of the opinion by the Court of Appeals that this was an action outside the authority of the OLCC and could be handled only by the legislature.

The actual reasons for the bill's defeat were summarized very well by Oregon political analyst Richard Bornemann, who said, "A 'No' vote allows a legislator to make a flashy show of support for organized labor without offending Oregon-based companies that are relied upon for PAC [political action committee] contributions during elections. For the pure politician, Coors offers an almost irresistible opportunity to be 'pro-labor' without appearing to be 'anti-business.' "

Another factor has to do with one of the very criticisms Irvin Fletcher had of Coors—massive campaign spending. According to reports filed with the Oregon secretary of state's office, the AFL-CIO bestowed a total of $101,325.11 on Oregon candidates and the state Democratic party in 1982. Eight members of the Oregon Senate received AFL-CIO contributions totaling $8,100, and except for one who was in the hospital recuperating from a heart attack, all cast their votes against Coors.

Following the defeat of S.B. 358 Coors placed advertisements in several Oregon newspapers that said, "We lost. You lost." By being denied the choices of which beer they prefer to drink, the state's consumers, ultimately, were the losers. Ironically, the affair serves as powerful evidence of William and Joseph Coors's comments regarding the questionable role of labor unions in 1983. When union leadership is more concerned with indefinitely maintaining a campaign of revenge, supported by lies and misinformation, than with the welfare of the worker, perhaps one can better understand why the labor movement is on the wane. ◧

Kelly Ross lives in Oregon. His previous contributions to REASON include "Vanishing Farmland" (March 1982) and "Losing Ground in Oregon" (April 1983).

TAKING LIBERTY

In spite of the Constitution, governments get away with taking property without just compensation. Only radical reform will protect citizens' rights.

BY ELLEN PAUL

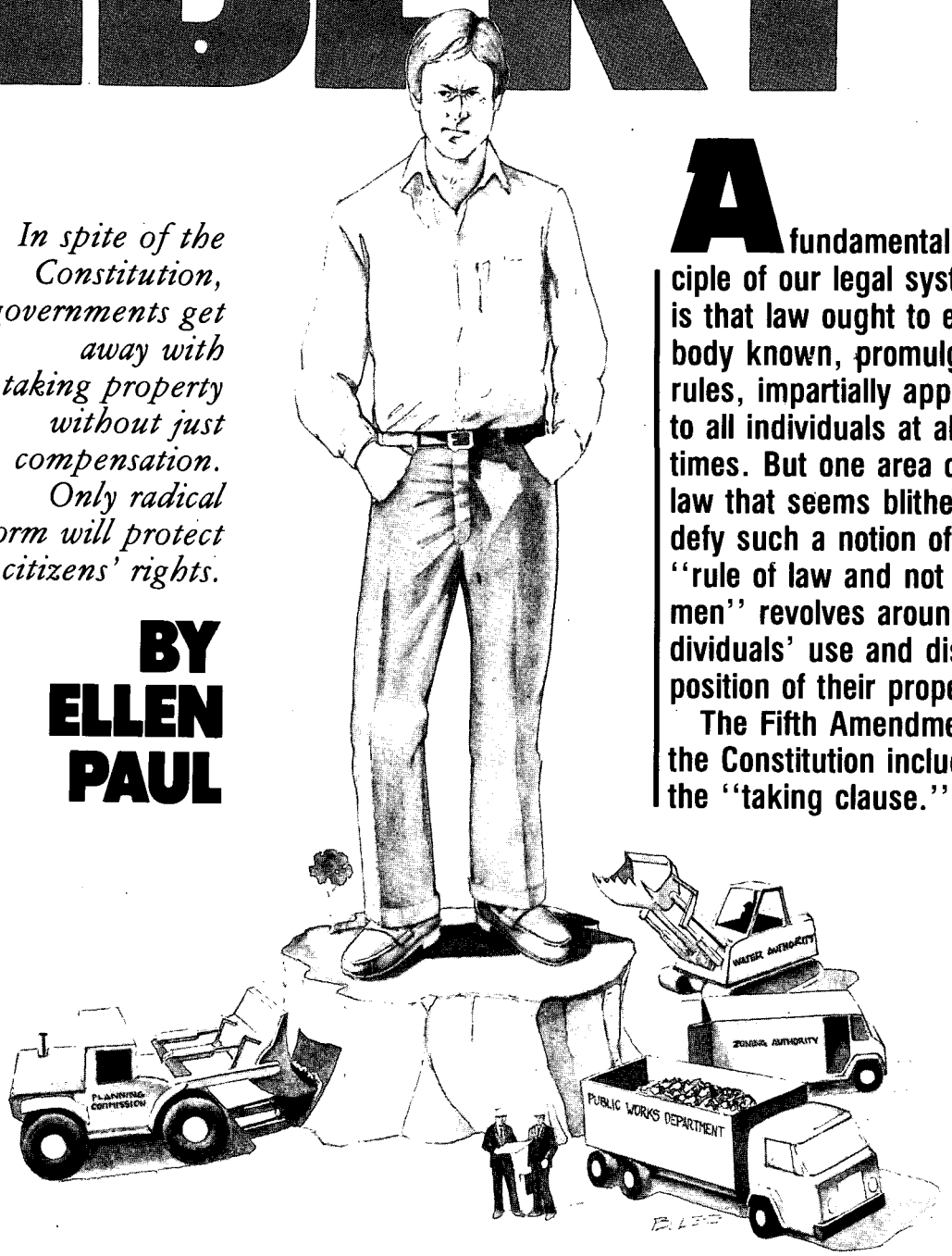


ILLUSTRATION BY BRYCE LEE

A fundamental principle of our legal system is that law ought to embody known, promulgated rules, impartially applied to all individuals at all times. But one area of the law that seems blithely to defy such a notion of the "rule of law and not of men" revolves around individuals' use and disposition of their property.

The Fifth Amendment to the Constitution includes the "taking clause." This

provision protects property owners from an otherwise almost limitless eminent-domain power by declaring, "Nor shall private property be taken for public use, without just compensation." Under the aegis of the taking clause, governments may exercise their power of eminent domain only when the property seized will be devoted to a "public use," and all takings must be accompanied by the payment of "just compensation." In many cases, however, governments do not openly *take* property through eminent domain. Rather, they simply *regulate* property under the guise of another putatively inherent power of government—the "police power," a legacy of English common law that allows governments to constrain individual conduct in the name of the public good.

Using the police power as a rationale, courts frequently sanction regulations imposing enormous financial losses on property owners and abridging their control over their own property. So long as these regulations are clothed in the proper police-power language—if a legislature proclaims that they were enacted to further the "public health, safety, morals, or general welfare"—courts will normally see them as "reasonable" and not examine either the motives of the legislators, the necessity for such measures, or the efficacy of the schemes. Zoning boards, planning commissions, city councils, and state legislatures are permitted to run roughshod over landowners' property rights, provided only that fraud, deception, or transparent favoritism are not conspicuously apparent. The rights to use, develop, enjoy, and transfer property—rights considered of intrinsic and preeminent importance by our Founding Fathers—suffer accordingly.

For example, zoning and land-use legislation frequently cause some landowners to absorb substantial financial losses, while other, more fortunate owners reap huge windfalls. This injustice mocks our basic intuitions about even-handedness in government's treatment of individuals. It also violates one of the egalitarian precepts that undoubtedly inspired James Madison's urging that the taking clause be included in the Bill of Rights: that no individual should be forced to contribute more than his fair share to public improvements.

How did such regulatory measures as zoning become judicially acceptable as legitimate exercises of local governments' police power? The reasoning can be traced in some legal precedents established when the victims of police-power acts challenged them as takings that, under the eminent-domain clause, should be beyond the pale of constitutional legitimacy.

Very early in our history, the courts confined compensable takings to instances in which a government had physically invaded the plaintiff's property. Late in the 19th century, however, the Supreme Court invoked a so-called "noxious use" test to distinguish legitimate police-power acts from unconstitutional takings. The noxious-use test arose out of a decision written by Justice John Marshall Harlan in an 1887 case, *Mugler* v. *Kansas*. Kansas passed a law prohibiting the manufacture of liquor within the state. Mugler, the owner of a distillery there, claimed that this law reduced the value of his property by 75 percent. He argued that it unconstitutionally deprived him of his property without due process of law and operated so as to take his property without compensation.

Justice Harlan rejected Mugler's argument. Conceding that not all statutes adopted under the guise of the police power are beyond review, Harlan explained that the due-process clause of the Constitution does not contravene the equally essential principle that all property is held "under the implied limitation that the owner's use of it shall not be injurious to the community." Therefore, he suggested that government can prohibit property uses validly declared injurious to the health, safety, and morals of the community. Such legislation is not a "taking"; the state need not compensate property owners for losses sustained when they are simply denied the privilege of inflicting harm on the community by the noxious use of their property. After all, no one has a right to inflict harm on others.

Justice Harlan's noxious-use test, while it remained the regnant theory embraced by the Supreme Court, produced some rather curious decisions. If the ordinary, peaceful, nonviolent, nonfraudulent operation of a brewery—a business that had never been considered a common-law nuisance—could be completely prohibited, what next? Under Harlan's test, the Supreme Court upheld a Pennsylvania statute prohibiting the manufacture or sale of oleomargarine as a valid police-power measure to protect the public health. The Court similarly endorsed a Los Angeles ordinance barring the operation of brickyards within a portion of the city even though only one brickyard fell victim to that edict, and its owner incurred a loss in excess of $700,000. Ban liquor, margarine, and brickyards today, and why not gasoline stations, cigarettes, beauty parlors, or even lemonade stands tomorrow?

Ban liquor, margarine, and brickyards today, and why not gasoline stations, cigarettes, beauty parlors, or even lemonade stands tomorrow?

Two cases in the 1920s further clarified—if it can be called clarifying—the context for distinguishing uncompensable police-power regulations from compensable takings. *Pennsylvania Coal Company* v. *Mahon*, decided in 1922, was the first.

In this case, the Pennsylvania Coal Company had sold land to the Mahons, reserving the right to mine beneath the surface of the land without liability for any attendant damages. Nevertheless, the Mahons went to court to prevent the company from mining in such a way as to cause their home, which was on the land, to subside.

The Mahons' argument relied on a Pennsylvania law called the Kohler Act, which required surface support in anthracite districts. The company argued that for this requirement to be constitutional, the state would first have to acquire the privately owned anthracite districts through condemnation and the payment of just compensation. But the state contended that it had no such obligation, because the Kohler Act fell within the bounds of its police power.

When the case went to the Supreme Court, Justice Oliver Wendell Holmes argued that the police power and the power of eminent domain were as two poles of a continuum. As a state exercised its police power, at some point it would move beyond the limits of that power and sneak over into the terrain inhabited by eminent domain. In other words, some activities that states might try to accomplish under the police power

could be constitutionally performed only under the power of condemnation. Thus, as bogus police-power measures, they would have to be invalidated.

But how can one tell whether an activity is a police-power action or in the eminent-domain terrain? Holmes proposed tests that boil down to a diminution-in-value criterion. "The general rule," he wrote, "is, that while property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking," else "the contract and due process clauses are gone." He added that "one fact for consideration in determining such limits is the extent of the diminution."

Holmes found that Pennsylvania had exceeded its constitutional authority—taking, in effect, the entire value of the coal by banning mining likely to cause subsidence. But he didn't say how large a diminution is required to cross the limit (100 percent? 25 percent?), nor did he say what other facts might be taken into consideration.

Not surprisingly, the adoption of the Holmesian test has fostered a chaotic legal climate. Decisions are written in highly conclusionary language, and they often supplement the diminution-in-value test with noxious-use or physical-invasion rules.

Another related theory, usually considered to have emanated from the *Pennsylvania Coal* decision, attempts to balance the benefit to the public against the loss to the property owner in order to determine the legitimacy of a police-power measure. If a court determines that the supposed public benefits exceed the private losses, the measure is deemed constitutional. Some environmentalists have been zealously encouraging the wholesale adoption of this harm/benefit standard. They believe that judges will become increasingly susceptible to their briefs arguing that land-use legislation always produces an enormous public benefit, a benefit always outweighing any private losses.

The second seminal case dealing with the distinction between police power and eminent domain was *Village of Euclid* v. *Ambler Realty* (1926). This case presented the Supreme Court with its first opportunity to review a zoning ordinance. Such ordinances had become quite popular after New York City's adoption of the first one in 1916. The Department of Commerce, under its energetic Secretary Herbert Hoover, fashioned a Standard State Zoning Enabling Act in the early 1920s, encouraged the states to adopt it, and accelerated the movement toward zoning.

Property rights are the necessary, if not sufficient, scaffolding upon which all other liberties—freedom of speech, press, mobility, and privacy—depend.

In *Euclid* v. *Ambler Realty*, the Supreme Court wholeheartedly blessed what would become known as Euclidean zoning. Ambler Realty alleged that Euclid's zoning ordinance operated on the company's unimproved land in such a way as to deprive the owners of liberty and property without due process of law and to reduce the normal value of the land without compensation. But the justices turned a deaf ear, despite an asserted diminution in value from $10,000 to $2,500 per acre. The town's zoning ordinance, according to the Court, fell within the purview of the village's police power.

Justice George Sutherland, writing for the Court, declared that "the line which in this field separates the legitimate from the illegitimate assumption of power is not capable of precise delimitation. It varies with circumstances and conditions." And he made an analogy between zoning and the common law of nuisance. "A nuisance may be merely a right thing in the wrong place—like a pig in the parlor instead of the barnyard," he wrote. "If the validity of the legislative classification for zoning purposes is fairly debatable, the legislative judgement must be allowed to control."

In the wake of *Pennsylvania Coal* and *Euclid*, property owners adversely affected by police-power regulations in general or land-use restrictions in particular must fight an uphill battle against the court-declared presumption of constitutionality adhering to challenged statutes. They must bear the burden of proof to demonstrate unconstitutionality, knowing full well that courts will uphold statutes if they are "fairly debatable." They must operate in a judicial climate of case-by-case, ad hoc decisionmaking. And even if a landowner *should* win a round in the courts—if he secures the invalidation of a zoning ordinance as it affects his property—the municipality can retaliate by propagating a slightly different set of rules. The property owner then has no recourse but to initiate another painful, expensive, and drawn-out round of litigation.

The "taking" muddle, with all its confusions and inequities, will never be satisfactorily resolved until judges once again appreciate the importance of and justification for property rights, as did such eminent early American jurists as Chief Justice John Marshall and Chancellor James Kent. They understood that property rights ought to be held in the highest esteem precisely because they serve as a bulwark against oppression by the state. They are the necessary, if not sufficient, scaffolding upon which all other liberties—freedom of speech, press, mobility, and privacy—depend.

At least once in recent memory, a member of the Supreme Court seemed to grasp the centrality of property rights to liberty. Twelve years ago, Justice Potter Stewart wrote in *Lynch* v. *Household Finance Corporation*:

> *The dichotomy between personal liberties and property rights is a false one. Property does not have rights. The rights to enjoy property without unlawful deprivation no less than the right to speak or the right to travel is in truth a "personal" right, whether the "property" in question be a welfare check, a home, or a savings account. In fact, a fundamental interdependence exists between the personal right to liberty and the personal right to property. Neither could have meaning without the other. That rights in property are basic civil rights has long been recognized.*

Welfare checks as property aside, Stewart's declaration is refreshing. It takes cognizance of the fact that without a right to property we would be no better off than those heroic members of the recently dissolved Helsinki Watch Committee in the Soviet Union—defending liberty in a system in which all property is owned by the state, and defending it fruitlessly at the cost of exile, banishment, imprisonment, and frequently death.

Perhaps this will be considered hyperbolic, since our courts

have not totally abolished property rights. A recent California Supreme Court decision, however, might give one cause for a bit of hysteria, since it left open the possibility that a *football team* can be "taken" under a city's eminent-domain power! This is a peculiarly flagrant example, and in any case, it is currently being appealed. But in less dramatic ways, other courts have steadily undermined property rights by permitting them to be chipped away through extensions of the police power.

Most thinking people who value not only their property but their lives and liberties would concede that a Soviet-style, complete emasculation of the individual's rights over property is unacceptable. Is it also impermissible or undesirable to defend the alternative—an absolutist view of property rights? In contrast to our courts, which delight in balancing conflicting individual and societal *interests* (in order, one wonders, to maximize their discretionary power?), I believe that it is not only desirable but imperative that individual *rights* be regarded as preeminent. If this is not established soon, courts could gradually permit property owners to be deprived of all their rights, except keeping title—and paying taxes.

What does an absolutist view of property rights mean in practice? First, the power of eminent domain—the power of the state to seize property against the will of its rightful owner, accompanied by the payment of compensation or not—is wholly unjustifiable. Just as an innocent person's life shouldn't be sacrificed by government even if that could prevent other, more numerous deaths—let us say, we hang an innocent person for a heinous crime as an example to deter potential criminals—so property shouldn't be confiscated to accommodate a new state office building, a more-convenient post office, or a less-circuitous highway. If A, as an individual, has no right to seize B's property, then a collection of individuals making up a government hasn't either.

And no "pragmatic" considerations justify violating someone's property rights, short of the extreme exigencies of war, when government may have to march its armies across someone's land to protect persons and property. Then, certainly, compensation must be paid to those bearing more than their fair share of the burdens of war.

But I can discern no theoretical justification for the power of eminent domain in peacetime. If government must construct military barracks, courts, and a few office buildings to carry out its limited functions, then it should purchase the land necessary on the open market, just like any other private buyer.

Economists may be troubled by efficiency concerns attending this solution. They may worry about hold-outs demanding exorbitant sums for their property, transaction costs, and so on. I would argue that *government's problems along these lines are no different from any large private developer's and should be treated accordingly*: government should either pay the price, negotiate downward, or abandon its project and try again elsewhere.

But what about that other presumed power of the state, the police power? If it were strictly a *police* power—one that operated to prevent crimes and punish criminals—it would fall squarely within government's proper domain. But in the name of "general welfare," that power has been expanded in this century to allow economic regulation far beyond government's proper bounds. It is now used to justify such governmental tampering with the market as minimum-wage and maximum-hour laws, workers' compensation acts, zoning, and usury laws.

Likewise, regulations aimed at protecting the "public morals" traduce government's proper function. The enforcement of morals forms no part of government's legitimate purpose, unless, of course, it is strictly limited to the prevention of criminal acts such as rape and murder.

The other two domains of the police power involve "public health" and "public safety." Here, in an ideal system, I would argue that government might play a very narrow role. For instance, it would be unexceptionable if a local government prohibited bomb manufacture in residential basements or outlawed dynamite storage in the attics of nursing homes. Such brazen behavior obviously endangers lives. Just as in the criminal law there are the law of attempts and the law of conspiracy, which allow government to act to prevent a crime before dead bodies are strewn about, so it seems reasonable to permit government to proscribe types of behavior that endanger lives through reckless disregard for the physical well-being of others. On the same theory, quarantine laws are just barely acceptable.

In general, then, property owners should be left to pursue private remedies in the courts if their property has been damaged or is in clear and present danger of damage. Only to a very limited extent should government engage in police-power regulation—when the danger is both proximate and life-threatening.

In the current judicial and public-opinion climate, the position suggested here may seem like flagrant extremism. There are, however, some free-market remedies that would most likely replace the overweening regulatory framework now enforced by our states. Building codes would plausibly be replaced by codes drafted privately, adjusted to circumstances, and enforced by insurance companies. (See "No Code Comfort," REASON, July 1983). Surely few developers would construct hazardous firetraps if they knew beforehand that they could not acquire insurance for their buildings. Likewise, interested parties, in a free market, would voluntarily coordinate land uses. As law professor Bernard Siegan has brilliantly demonstrated, egregiously incompatible property uses will not often coexist in the absence of zoning ordinances. Restrictive covenants that run with the land, renewable at intervals of several decades, can easily ensure that a slaughterhouse, for example, will not locate in residential areas. And if a property owner were so unfortunate as to find his house suddenly near a noxious chemical plant, a remedy would lie in nuisance law, for no one has a right to use his property in such a way as to affect adversely another's enjoy-

The "taking" muddle will never be satisfactorily resolved until judges once again appreciate the importance of and justification for property rights.

ment of his own property. Let me attempt to draw from this ideal model some implications for the real world.

The Fifth Amendment stipulations regarding the government's exercise of the eminent-domain power should be refurbished. Takings must be for a genuinely *public* and not a private purpose. Accordingly, urban renewal, where private property is seized and then resold to private developers in order to "beautify" the city, should be judicially repudiated. Courts ought *not* to defer to legislative statements about "public use"; they should independently evaluate the necessity for the taking, examining whether it is the least-onerous course possible for effecting the admittedly desirable improvement and whether the planned use is indeed a public one, of benefit to each and every citizen, or merely a private one under the mere pretense of a "public use." In five states (Arizona, Colorado, Mississippi, Missouri, and Washington), there is currently no presumption in favor of the constitutionality of a challenged taking. That reform should be extended to other state and federal jurisdictions.

"Just compensation" should include recompense for a whole range of losses now usually disallowed, including payment of legal fees, assessment costs, and loss of business good will. The fact should be squarely faced by legislatures—and if not there, then by courts—that the analogy between takings and a private sale is false, and therefore owners should *not* be forced to bear the costs attendant upon a forced sale as they would a voluntary sale. Also, courts ought to be more hospitable to recovery for consequential damages, allowing relief for a wider range of tangential damages and displaying a high degree of skepticism toward government excuses for denying recovery.

"A fundamental interdependence exists between the personal right to liberty and the personal right to property," Justice Potter Stewart wrote 12 years ago. "Neither could have meaning without the other."

One more qualification should be placed on eminent domain by state constitutional changes, legislative renunciation, or judicial denial. The eminent-domain power must not be delegated to private corporations and public utilities.

As with eminent domain, the ever-expanding police power must also be circumscribed. Perhaps state constitutions could be modified to mandate that regulations significantly deflating property values must be accompanied by payment of compensation. In the 1870s, several states modified their taking provisions to allow compensation when property was "taken *or damaged*," rather than just "taken." This was because many property owners felt victimized when public improvements damaged their property and courts denied them recovery, terming such damages merely consequential and, therefore, *damnum absque injuria* (a harm or damage without violating a legal right). Today, a similar collection of aggrieved property owners is arising, as more and more hapless souls fall victim to such regulatory excesses as the California Coastal Act, no-growth policies, and open-space designations.

If the preeminence of individual rights is not established soon, courts could gradually permit property owners to be deprived of all their rights, except keeping title—and paying taxes.

If states modified their taking clauses once again to mandate compensation when private property is taken, damaged, or *appreciably diminished in value* through regulation, governments would be more reluctant to meddle with property. They would know full well that they would have to compensate all owners sustaining direct and appreciable damages to the degree they now do in eminent-domain proceedings. Thus, less regulation would occur; and when it did, it would be better-assessed regulation. Cost-benefit analysis would suddenly become imperative as legislatures had to face the consequences of their actions. While from a property-rights perspective this solution is far from ideal, at least it would point government in the right direction. Zoning, for example, would become egregiously expensive and probably suffer a much-deserved demise.

With the police power reined in by the compensation requirement and with eminent domain limited to a narrow range of strictly public uses, the flagrant, uncompensated takings that occur today would probably be avoided. It seems unlikely that courts will strictly confine the police power even to pressing instances of protecting the public health and safety. Nevertheless, they ought at least to reexamine their rule that the burden of proof rests with plaintiffs to prove beyond reasonable debate that a challenged act is unconstitutional. This burden should instead reside with the state once the plaintiff has presented a *prima facie* case—just as states must meet a difficult "compelling state interest" test in order to override individuals' liberties in the case of laws challenged on equal-protection or on due-process grounds for impinging on First Amendment rights.

The courts remain the only viable institution to protect endangered property rights. It is distasteful to endorse judicial activism today, given the results when courts have, in effect, tried to run schools and mental hospitals. Yet activism in the name of protecting property rights is a perfectly legitimate court function. To borrow a locution from an august politician, judicial activism in behalf of property rights is no vice, and equivocation in the pursuit of justice is no virtue. ◧

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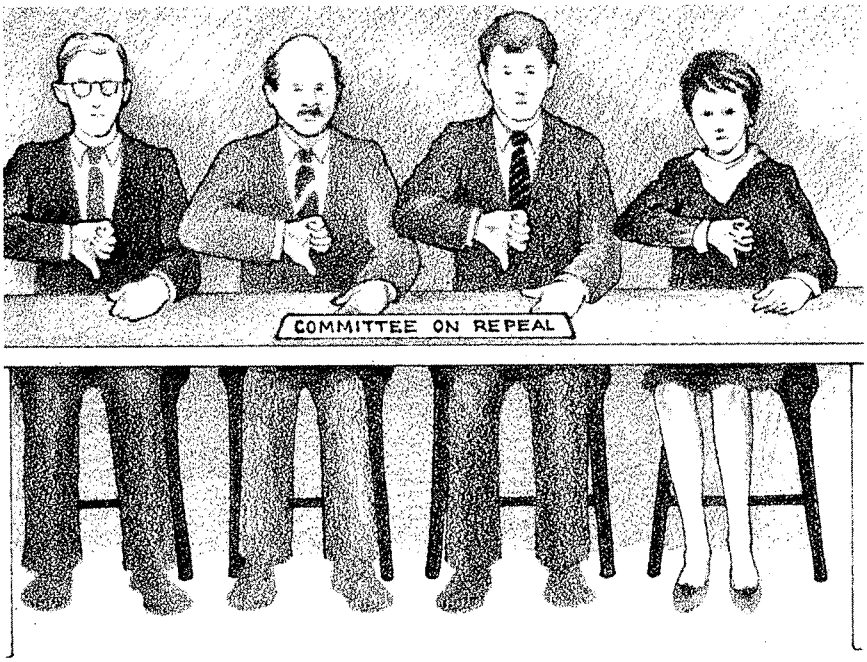
VIEWPOINT

A Time to Repeal

BY LAURENCE W. BEILENSON

"The facility and excess of lawmaking," wrote James Madison (*The Federalist*, No. 62), "seem to be the diseases to which our governments are most liable." "It will be of little avail to the people," he added, "that the laws are made by men of their own choice if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood." After two centuries, the law-sickness already prevalent at the birth of our nation threatens to become a terminal malady. The illness can be alleviated by a Committee on Repeal.

In every legislative body, there should be formed a committee whose sole duty is to recommend laws for repeal. It would be better still if Congress, every state legislature, every county governing body, and every city council would spend 90 percent of its time on repeal.



The necessity is apparent. In the 1920s, when the California legislative sessions were biennial, the legislature still managed to enact new laws every two years that required a thick volume to print. Now no single volume would suffice. Multiply the annual output of 50 states. Add the statutes passed by Congress every year. Throw in county and city ordinances. The sum is a conglomeration of laws that nobody knows much less understands.

The statutes are only the initial sickness; their interpretation by the courts adds the complications. In enacting a large volume of law, legislators perform the task so ineptly that the statutes invite litigation about interpretation and sometimes constitutionality. To add to the law and the confusion, courts pour forth opinion upon opinion, which are endlessly appealed. Not to be outdone in the zeal to enact, the courts have come to *legislate* under the guise of decision.

Such is the volume and complexity of our laws that nobody—not any lawyer, not any senator, not the Chief Justice of the United States—could pass an examination on the whole subject. On December 31, 1984, it will be a rare California assemblyman or senator who will be able to recite the list of laws passed by the California legislature for 1982 and 1983 and their full import. Even the two or three who might be able so to recite could not withstand cross-examination on their knowledge. And only a few lawmakers understand the content of the bills on which they vote.

The mischiefs from our multiplication of laws are pernicious. It has become commonplace to depict the United States as a land whose productivity is heavily burdened by carrying a huge bureaucracy on the back of the staggering body politic. The picture is accurate; the culprit, mischosen. The parent of our bureaucracies at every level of government is a legislative body. Blame the parent, not the child.

The bureaus do indeed create thousands of new laws by regulations. Again, however, the fault is not the bureaus or the regulations in themselves but the statutes spawning them.

This rabbit-like breeding of laws filches from the pocketbook of the taxpayer. If all the state legislatures met only long enough to pass the required budgets, the financial benefits to the people would be enormous.

And the deleterious effects of our addiction to laws extend beyond our purses. The swarm of laws has completely broken down the administration of justice. In Los Angeles County, for example, it takes five years after a civil case is at issue to obtain a trial before a jury. With getting to issue and appeals, add at least three more years. Justice delayed is justice denied.

The length of litigation adds to its cost, as well. A lawsuit for the average citizen is a catastrophe. Anybody with a grain of financial sense attempts to stay out of the courts.

We boast that we are governed by law. The boast is true on paper, untrue in fact. As the laws increase, their enforcement declines.

This state of affairs cannot be changed without a drastic alteration. Today, an incumbent seeking reelection cites as evidence of his merit the bills he has introduced. A wiser electorate would instead give the legislator a *demerit* for each law he has helped to pass and a credit for each he helped repeal.

To create such a public attitude we need a nonpartisan citizens' movement for the Committee on Repeal. Its object would be the repeal of about 90 percent of our laws. That would be a blessing in itself. In addition, keeping our representatives busy repealing laws would give them a lot less time for legislating mischief.

Laurence W. Beilenson is an attorney and a long-time student of history and politics. His books include The Treaty Trap *and* Survival and Peace in the Nuclear Age.

ILLUSTRATION BY SUSAN SALLADÉ

Computing a Tax Break

BY TIMOTHY CONDON

Hype, hype, hype, hype, hype, hype, *hype, hype!* What ever am I talking about? Why, the super-ballyhooed personal computer revolution, of course. I don't know about everyone else, but the whole thing is getting downright sickening. No. No it isn't. It was *worse* when the sales morons told us we had to have a $5,000 or so machine to—get this—keep lists of recipes and balance our checking account monthly.

There's only one problem: *what if they're right?* The fact of the matter is, they *are* right. Not about the stupid sales ploys we were assaulted with in the early days of the emerging personal computer market, but about the ultimate triumph of the near *necessity* of having one of the things. Not a day passes without a new breakthrough, not a month goes by without a new use announced or a new service directed at microcomputer users.

So what the hell, that's the way capitalism works (bless its life-giving heart), is it not? So, rather than complain any more about the never-ending hype, let's join 'em—*and* use the computer revolution as a tax dodge.

First things first. If you're going to buy a home computer and write it off on your tax return, you've got to have a *business* or *money-making* or *money-conserving* function for the thing to do. Remember that if you spend money for any "ordinary and necessary" business expense, or for the "management, conservation, or maintenance of property held for the production or collection of income," then the expenditure is either deductible immediately or depreciable over time.

Under President Reagan's new tax code depreciation rules, you have a choice: you can immediately write off as a deduction up to $5,000 worth of depreciable equipment bought in 1983 ($7,500 in 1984 and 1985; $10,000 for 1986 and beyond). Most microcomputer systems cost less than $5,000, so you could take the entire thing as a deduction—in which case, you would save a percentage of the cost of the machine, depending on what your top tax bracket is. (For instance, if you bought a $3,000 computer and you were in the 40 percent tax bracket, you would save $1,200, or 40 percent of $3,000, because without that $3,000 deduction, the *government* would have helped itself to that $1,200, thank-you-very-much).

On the other hand, you can depreciate a business-use computer over five years, and with that comes an investment credit of 10 percent. By the way, a couple of new rules recently appeared with respect to depreciable property and investment credits: If you take the 10 percent tax credit—say, on a $4,000 computer—$400 comes off the top of your tax bill. But then you have to reduce the depreciable basis of the computer by half of that credit; in other words, you only depreciate $3,800 of the computer price. If you elect to take only an 8 percent tax credit, however, you can then depreciate the entire $4,000.

Not a month goes by without a new service directed at microcomputer users.

If you depreciate the computer, you may deduct the following amounts (multiply the percentage for each year times the price of the computer, and that's your depreciation deduction for that year): year one, 15 percent; year two, 22 percent; years three, four, and five, 21 percent.

Which option should you take, expensing or depreciation? That depends on your present tax situation and what your yearly income is doing: if you made big bucks this tax year and your income isn't rising that fast, then you should probably expense (depending on how much in deductions you have *otherwise*). But maybe your income is rising rapidly, and you'll need extra deductions in the next few years. In that case, depreciation would probably be the better course. Check with your tax champ; or figure it out yourself, using the different options and different income scenarios.

Software? Well-l-l-l. . . seems that the old IRS insists on getting exercised over that one. You see, the programs that go into the computers to run the things are often *quite* expensive. Can you immediately write off such costs, or must they be depreciated? Predictably, the IRS has jumped to the conclusion that software *must* be depreciated and, furthermore, that it is an "intangible," because you are buying "rights" to use something, like a copyright. The result is that you can't get an investment credit.

Let's therefore go ahead and either immediately expense our software or depreciate it and claim an investment credit. Why? Because, for one thing, the highest state courts in both Vermont and Maryland have ruled that software is "tangible" property and therefore subject to state sales taxes. Furthermore, at least one federal appeals court has ruled that movie films are tangible property—can anyone tell me why controlled light pulses on plastic tape are in any way different from controlled electronic pulses contained on plastic disks?

One final caveat: if you don't use your computer *exclusively* for business or management or production-of-income, etc., then you can't take 100 percent of the above tax breaks. If you use your computer, say, 75 percent for business or income purposes and 25 percent of the time play "Zap the IRS Monster" with your 9-year-old—then you can only take 75 percent of the above deductions and credits. So see that all your personal computer usage is for deductible purposes. A very good idea would be to set up a computer-use log where each use, and the date and purpose, is logged in a book (or perhaps someone out there can tell us how to make the computer do it automatically?). Also, needless to say, you'd better hold on to your sales slips and receipts indicating your computer expenses over the previous tax year.

Looked at this way, I take it all back: hurray for the computer revolution! Let's just see that the government pays for it.

Tim Condon is an attorney and a tax specialist practicing in Florida.

SPOTLIGHT

Ecologist cum Economist

BY PATRICK COX

"Government monopolies and subsidies are the largest cause of ecological destruction"—a surprising statement coming from an official of an environmental-advocacy group that, like many others of its kind, has time and again called for government intervention to resolve environmental problems. The speaker is Zach Willey, senior economist at the Berkeley, California, office of the Environmental Defense Fund (EDF), a highly regarded organization with about 60,000 members nationwide.

On the surface, Willey seems to be the archetypal environmentalist. His greyish-blond windblown hair is six and a half feet above the ground. He wears hiking boots, jeans, and a perpetual smile. He built his own cabin on a tree-hidden rock ledge in Big Sur, carrying all the materials uphill through a canyon replete with redwoods, sage, and poison oak.

But Willey, who earned his Ph.D. in economics at the University of California at Berkeley, is more than he appears. He is part of a remarkable team of environmentalists at EDF in Berkeley, also composed of Harvard-trained attorney Thomas Graff, Yale-trained attorney David Roe, and Dan Kirshner, a physicist and computer whiz who programs models that give almost instantaneous information about the environmental effects of changes in public policy. "But we have all become economists," Willey says, for it is the "inefficient use of natural resources" that "leads to further development projects." And because government policies that encourage such economic inefficiency cause most ecological destruction, Willey explains, "we use economic analysis to attack them."

A recent example is EDF's analysis of a situation in southern California. According to Willey and other experts, almost a half-million acre-feet of the 3 million acre-feet of Colorado River water that the Imperial Irrigation District (IID)—the authority that controls the water supply to the Imperial Valley, a major growing area—uses could be saved through simple, cheap conservation efforts. But IID pays only $6.50 per acre-foot of water that costs taxpayers at least 20 times that to deliver, so there is little incentive for either the growers or IID to conserve.

To inject such incentives into the situation, EDF came up with a scheme that would bring tears of joy to the most dedicated profit-monger. Willey and his colleagues proposed that the Metropolitan Water District (MWD), which serves the south coast of California, be allowed to make improvements on the IID system in return for the water thereby saved. At the end of a 10- to 20-year lease period, IID would own the improvements and the additional water supply.

ZACH WILLEY

For years, the state of California has been trying to build an expensive and environmentally destructive canal from northern to southern California to provide water for MWD's customers. But Willey says that EDF's scheme would cost MWD only a fraction of what the proposed Peripheral Canal would cost, while reducing pressure for the canal.

Willey calls it "a no-loser situation," but he says that bureaucrats now controlling the tax-subsidized water and interests who use it (mostly growers) seem hesitant to allow any incursions onto their "turf." "I admit this is a kind of backdoor approach," Willey says, "but as long as we have water paid for by taxes and controlled by government agencies, it will be necessary. Ideally, we would just deregulate water allocation altogether. One of the lessons of this thing is that if we just let the market operate, we wouldn't have to go through these mind-bending exercises just to cut a deal."

Willey's perspective comes from various sources. He credits his father, who often took him hiking and hunting in his native California, for instilling in him the appreciation of the outdoors that he still holds. In his Ph.D. thesis, Willey compared nonchemical agricultural pest control to the use of pesticides. Farmers who hired consulting entymologists to implement a variety of programs such as the use of predator insects and techniques of harvest, irrigation, and crop rotation, Willey found, spent less on pest control than those who used the tax-supported County Extension Agency services, which rely almost exclusively on chemicals. Thus, early in his career, Willey saw proof that uneconomic and unecological activities are often the same.

After getting his doctorate, Willey spent two years in Egypt building a mathematical model of the Nile River environment and how development projects (such as the Aswan Dam) would affect water quality. When he "got fed up with being an expatriate and diplomat between Egyptian economists and scientists," he took three months to walk through the Mt. Everest region of the Himalayas. The experience reaffirmed his commitment to the environment *and* people. "The irony of the stark poverty of the people next to the beauty of the mountains struck me," he says. "Ever since then, I have wanted to work at the interface of environmental majesty and people's needs." It is that willingness to face the reality of seemingly contradictory goals—conservation and development—that makes Willey stand out from the crowd of mainstream environmentalists.

Willey notes that the similarity between computer models of a diverse ecosystem and a true free market are remarkable. "But," he says, "free marketeers have to develop workable plans instead of just theorizing about the way it could be. That is where the challenge is today."

Patrick Cox is a frequent guest columnist for USA Today *and public affairs director of the Pacific Institute for Public Policy Research.*

PHOTOGRAPH BY LONNIE WILSON/OAKLAND TRIBUNE

arts & letters

MOVIES

Reviewed by John Hospers

Terms of Endearment

First-time director James Brooks said of *Terms of Endearment*, "People are always trying to think of shortcuts on making the kinds of films people want to see. But that doesn't work. The only answer I know is to do the film you really want to do and just try to be good at it." He did, and he has succeeded well enough to create one of the most original and curiously touching films of the year.

This movie doesn't fit any preset categories. It begins as a comedy, with numerous crazily unpredictable comic touches; it ends as a tragedy, with the daughter dying of cancer and the burden of what to do with the children. Yet the transition from the one to the other—along with several subsidiary transitions in between—is never felt as awkward or straining credibility. The film flows, like life itself, with the interruption of one causal series of events by another, united into a whole by the well-drawn and memorable characterizations.

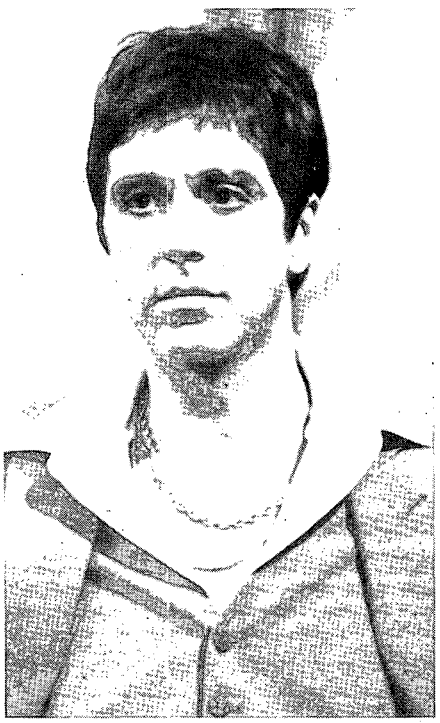
Central to the drama is the mother (Shirley MacLaine), whose pointed remarks set the tone of the film. "You aren't special enough to overcome a bad marriage," she tells her daughter. And when the mother refuses to attend the daughter's wedding, the daughter (Debra Winger) says, "It sure would be nice to have a mother somebody likes." The relation between mother and son-in-law (Jeff Daniels) is strained: when he takes a job in Des Moines, MacLaine says, "You can't even fail locally."

Yet this is not primarily a comedy of bitchery. The comedy is, as in all good films, a by-product of a characterization that has other goals in mind. There is pathos in the film, along with sadness, tension, frustration, and, most of all, a moving and abiding love between mother and daughter (who are more like sisters) that sustains themselves as well as the picture. No one else really counts, not even the next-door ex-astronaut-suitor (beautifully played by Jack Nicholson) or the frustrated banker who beds the daughter (a marvelous bit performance by John Lithgow).

What is most remarkable about this film is its freshness of insight into human relations. One moves with its unexpected rhythms, empathizing totally at each juncture. "There is never," writes the director, "a moment in the picture that takes you to the next moment or the next place. You just arrive and it seems inevitable—I hope." It does—or even if it doesn't, the viewer is so caught up in the lives of the interacting characters, each vividly etched in deft strokes of characterization so as to leave an abiding impression, that things like inevitability or even careful plot structure don't seem to matter any more.

Scarface

Compared with director Brian De Palma's previous ventures in suspense, there is no suspense at all in *Scarface*—its outcome is predictable from the start. Yet every film he does, De Palma has



Morality play: Succumbing to evil, the title character (Al Pacino) rises and then is brought down in SCARFACE.

recently told the press, is "highly moral." This one could indeed be construed as a kind of morality play: a man with a strong penchant toward evil succumbs to it, rises in the world of crime, and is brought down. But most of the film consists of monotonously repeated violence—shooting, blood, gore, severed limbs, and endlessly repeated four-letter words. It lasts for almost three hours, and most of it is a bore. It ends only when practically everybody is dead.

Al Pacino is very good as Scarface, presented here as a Cuban exported from Castro's prisons, but certainly no better than was Paul Muni in the original version of this film, directed many years ago by Howard Hawks. At least Hawks gave the protagonist some interesting character traits; Pacino is evil practically from the beginning to the end, and thus the main characteristic by which we identify with characters, sympathy, is lacking. Since the earlier *Scarface* is frequently presented on television, it's worth seeing at home and saving the price of a ticket to the new one—except, that is, by those viewers who prefer a hundred murders to a dozen.

White Dog

Director Sam Fuller, the master of violence (along with the other Sam, Peckinpah), has turned his talents to the depiction of animal violence, specifically, to a white dog—that is, a dog that has been trained in puppyhood to attack only black people. The film has been denied general circulation because of its supposed racist theme; this is unfortunate, for there has never been a less racist film.

A girl who lives alone finds a stray dog in her yard, to whom she develops a strong attachment, particularly after the dog saves her from an attacking rapist. But when the dog attacks an innocent person, she learns through a trainer that it is a "white dog," and the only thing to do is shoot it.

She refuses this option and exhausts every possible alternative in an attempt to retrain (uncondition) the dog. The black trainer is infinitely patient and takes great risks; the development of this aspect of the story is intense and dramatic. The outcome of any attempt at unconditioning is, however, chancy: should the dog be saved even at the subsequent risk of human life?

The scene in which the girl confronts the man who trained the dog as a puppy to be a "white dog" is emotionally involving enough by itself to be worth the price of admission. The rest of the film is a further bonus.

John Hospers is the author of Understanding the Arts. *He teaches philosophy at the University of Southern California and is the editor of the* Monist.

BOOKS

Public Education Theology

Managers of Virtue: Public School Leadership in America, 1820–1980
By David Tyack and Elisabeth Hansot
New York: Basic Books.
1983. 312 pp. $17.95.

Reviewed by Samuel L. Blumenfeld

It was easier for the Harvard Unitarians to give up believing in the divinity of Christ than it is for Profs. David Tyack and Elisabeth Hansot to give up believing in public education. Maybe it's because, as they say in their new book, *Managers of Virtue*, "The public-school system is probably the closest Americans have come toward creating an established church." As cardinals in that church, Tyack, professor of education and history at Stanford, and Hansot, professor of political science at the University of Nevada, are at pains to defend an institution that appears to be in an irreversible state of decline.

There are not too many believers in the church of public education these days outside of the colleges of education, the state bureaucracies, and the National Education Association. Its "theology" has a hollow, spiritless ring. Most of the worshippers go through the motions so long as a paycheck greets them at the communion rail; but once the money stops, so will the genuflecting.

Managers of Virtue is a half-hearted attempt to fan the dying embers of the public-education creed. But it has a tough time demonstrating why the church, which has led a long, prosperous, but checkered life, should not be permitted to die out.

"It is easy to imagine a future," the authors write, "in which community of commitment to public education atrophies, competition for scarce resources increases, and public schools endure a slow death, especially in those communities where the poor and minorities predominate." And yet, when you stop and think about it, it is the poor and minorities who would benefit most from the demise of government-run education, because it is they who most need contact with the affirmative value systems that only private schools seem to provide.

To the authors, rebuilding a "community of commitment" is of utmost importance if public education is to survive. But what is a community of commitment if not a body of true believers who have "faith" in what they believe?

"Many politicians," complain the authors, "now seem convinced that Americans need MX missiles more than school lunches and Title I. Advocates of vouchers and tuition tax credits for private schooling suggest that family choice should reign supreme and that education is more a consumer good than a public good. And if people who have a choice believe that public education is a mess—as the media insistently say—why should sensible people send their children to public school at all?"

The authors chide parents for considering education a consumer good more than a public good. As if a public—or government-owned—institution can do only good! If by *public good*,

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the authors mean "what's good for the public," then it could easily be proven that the private sector does more good for the public than does the public sector.

Nor do parents "believe" that public education is a mess—they *know* it's a mess. Nor is it merely the media who say so. There are plenty of professors, teachers, students, and researchers who say so. The media merely report what they are told, and what they are told is only a fraction of the story.

"The best case for public education," Tyack and Hansot write, "has always been that it is a common good: that everyone, ultimately, has a stake in education." But that perhaps is why parents are in fact deserting the public schools, because they indeed have a stake in education and are finding that they cannot get it in the government-run system. What really underlies the authors' faith in public education is not their dedication to the "public good" but a commitment to the liberal agenda of "educational equity"—the newest manifestation of egalitarianism—which, of course, cannot be carried out without massive federal intervention.

Actually, the authors hoped that they could inspire renewed faith in public education by reviewing the careers of some of its better-known leaders. But all they really do is confirm what revisionist historians have been saying: that the purpose of public education, from the very beginning, has not been to teach but to indoctrinate. Tyack and Hansot note that "the consensus behind the creation of public education in the nineteenth century was based in large part on a belief system that John Higham has called a Protestant-republican ideology, a source of unity in a highly decentralized nation."

Why was that pan-Protestant unity so urgently needed at that time? Because of the massive influx of Catholic immigrants who, in the eyes of many Protestants, threatened to change the original cultural and religious character of the United States. Not a few of the common-school crusaders saw themselves as defenders of the Reformation. "Ministers in Oregon," state the authors, "feared that settlers would fall prey to Roman Catholics who were rapidly building schools and churches. Through their correspondence runs a common note of anti-Catholic hysteria, which was also a staple item in the fund-raising literature of the missionary societies."

Perhaps the best part of this book is that covering the years 1890–1954, during which the process of consolidation and centralization was accelerated by a new breed of professionals. These were men like Ellwood Cubberly, George Strayer, and Charles Judd who, as deans of the most influential colleges of education, became "placement barons," weaving networks of influence and control throughout the system. They were known as the "education trust" and learned how to milk the sacred cow of public education with an expertise that makes Tammany politicians look like amateurs.

Tyack and Hansot find much to admire in these leaders; but, woefully, they miss the entire point of their own research. Centralization of power took place not because America had been taken over by a dictator but because a lot of little emperors had found a very congenial place where they could build their own personal empires completely protected from public view. This is what happens when a free country adopts state monopoly education. The careerists create networks of control that strangle dissent and ensure conformity.

The truth of the matter is that government-controlled education is incom-

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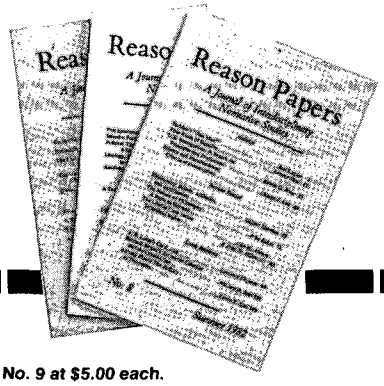

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patible with the values of a free society. It is a tool for despots, and the reason why it works so poorly in this country is that there exists among Americans a deep suspicion of and resistance to state power. Behind the seemingly benign concepts of "educational equity" and "community of commitment" are the not-so-benign realities of compulsion and monopoly.

Besides, the public schools don't teach. So why struggle to save what ought not to be saved? The end of public education will mean the end of a sham. But it will also mean the dawn of a new and tremendously exciting era in American learning—one of freedom, diversity, enterprise, competition, and achievement.

Contributing Editor Samuel Blumenfeld is the author of numerous books and articles on education.

The Third-Party Trap

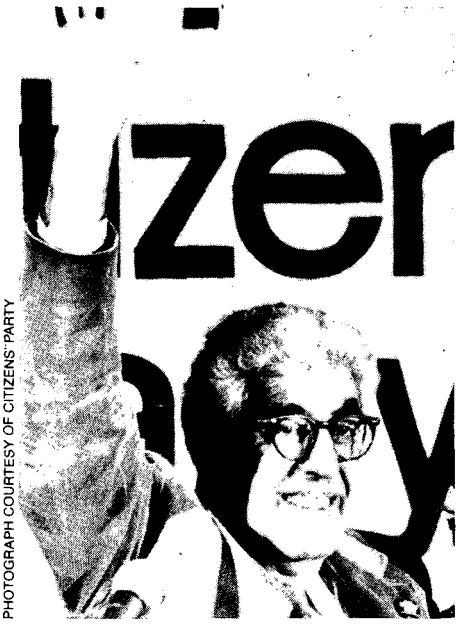
The Other Candidates: Third Parties in Presidential Elections
By Frank Smallwood
Hanover, N.H.: University Press of New England. 1983. 289 pp. $20.00.

Reviewed by Stuart A. Lilie

As its title suggests, *The Other Candidates*, by Frank Smallwood, focuses on candidates from minor political parties in US presidential elections. This focus is a useful corrective to the overwhelming public, media, and scholarly concentration on the two major political parties in this country. Since the success of the Republicans as a "third" party in 1860, more than 200 independent or minor-party candidates have entered presidential races. Smallwood interviewed the 11 such candidates who ran for the presidency in 1980: John Anderson, Ed Clark (Libertarian Party), Barry Commoner (Citizens'), Ellen McCormack (Right to Life), Percy Greaves (American), John Rarick (American Independent), Deirdre Griswold (Workers World), Andrew Pulley (Socialist Workers), Simon Gerson (Communist), David McReynolds (Socialist) and Benjamin Bubar (Prohibition).

These candidate interviews, reproduced verbatim with a short introductory note for each, constitute the heart of the book. Four additional chapters attempt to interpret the history, impact, and future of third parties in a political system that for 200 years has been dominated by two and only two political parties.

The value of the book is in the interviews. These interviews make clear the extent to which the American political



PHOTOGRAPH COURTESY OF CITIZENS' PARTY

Third-party candidates like the Citizens' Party's 1980 presidential candidate, Barry Commoner, run for two reasons: to publicize party ideology and build membership.

system is biased against third parties. Even the method by which we decide who has won an election—the single-member-district, plurality system—mitigates against growth of third parties. State law buttresses the electoral monopoly of the Democrats and Republicans by guaranteeing ballot space to the candidates of these two parties while requiring petitions, signatures, and fees before any candidate who is not a Democrat or Republican can be placed on the ballot. Further, requirements for ballot access differ in each state. Independent and minor-party candidates thus must spend large percentages of their resources just to get on the ballot; few pass this hurdle in more than a handful of states. In addition, the government financing created by amendments to the Federal Elections Campaign Act of 1971 clearly works to the disadvantage of minor-party candidates. While the candidates say that they are able to obtain coverage from local newspapers and television stations, little or no national network coverage is available to them. *The Other Candidates* makes clear the subtle interactions and cumulative impact of these legal and institutional barriers, which trap minor-party candidates in a self-fulfilling cycle of near invisibility that is perpetuated by few resources and little media attention.

In the face of these kinds of barriers, why do third-party candidates persist? Candidates have two motivations: to achieve public exposure for party ideology or issue positions, and to increase party membership. It is also clear from the interviews that of the groups running candidates in the 1980 presidential election, only the Libertarian Party has made progress toward becoming a truly organized, mass-based political party. The Libertarian Party has created state and local organizations throughout the country and runs candidates for offices other than the presidency (presumably the Citizens' Party is now also attempting such organization). John Anderson's candidacy, like that of most "independent" candidates, built no organization that would persist after the election was over.

PHOTOGRAPH BY BRUCE LAGASSE

Of all the groups that ran candidates in the 1980 presidential elections, only the Libertarian Party has made progress toward becoming a truly organized, mass-based political party, with state and local organizations throughout the country.

Smallwood also very nicely sorts out the electorally active, ideological parties of left and right in the United States. Since these parties tend to form,

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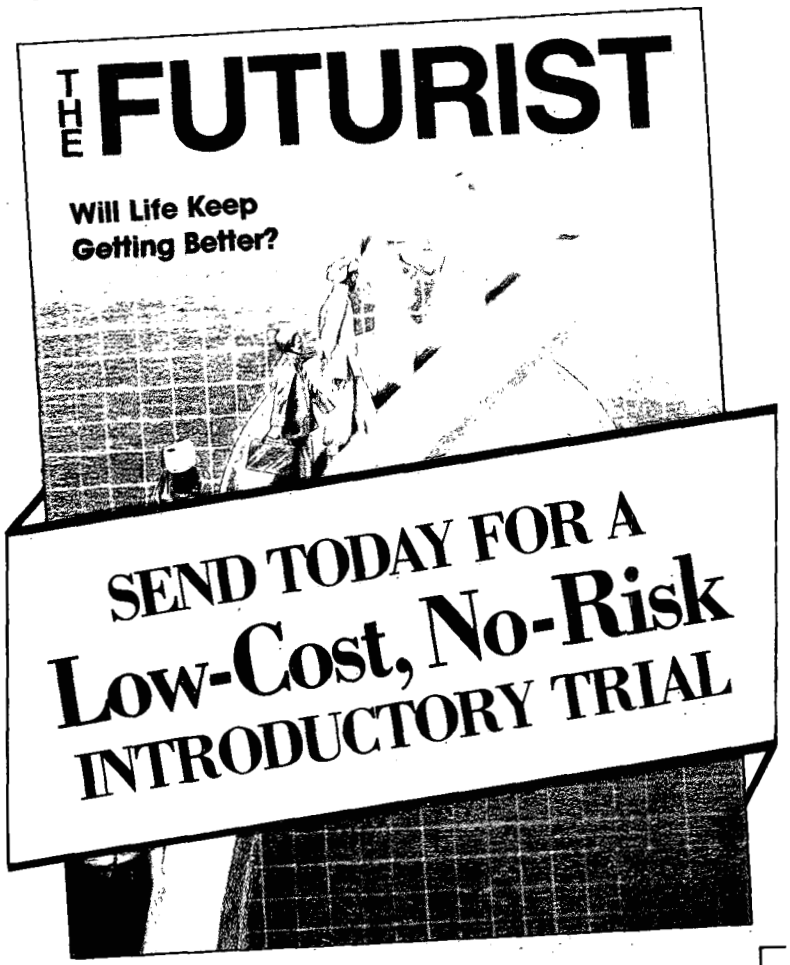

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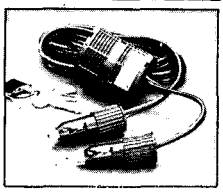

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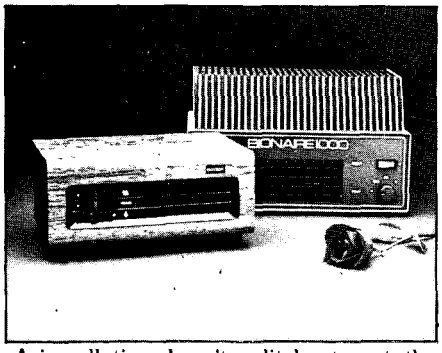

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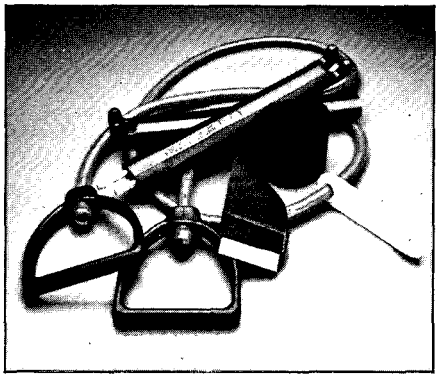

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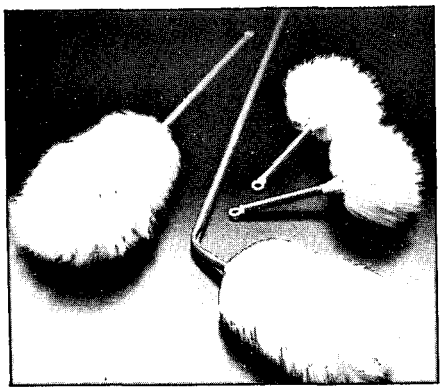

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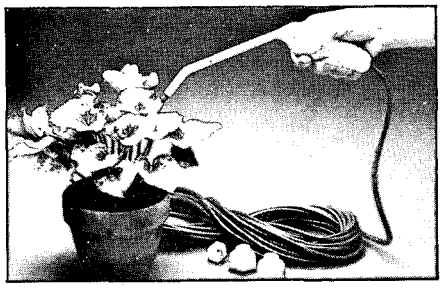

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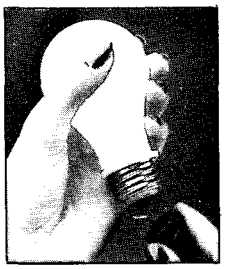

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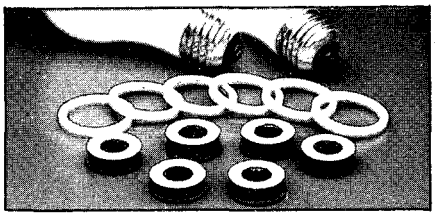

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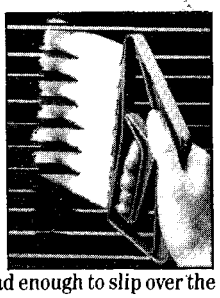

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split, and reform with great regularity, this succinct summary of their development, ideologies, and disagreements is very useful. This is particularly true for the parties of the left, since neither scholars nor the media have given much attention to the Socialist, Communist, Socialist Workers, or Workers World parties in the United States.

When Smallwood turns to the larger, more theoretical questions of the role, function, history, and future of third-party movements in the United States, he is less successful. In the early chapters, the issues are posed with a "gee whiz" kind of naiveté that gets in the way of treating these as complex questions. The first two chapters are a very short recounting of the history of some third parties, along with a listing of the chief scholarly interpretations of reasons for and implications of two-party dominance. For the reader who has never approached these topics before, this might be a useful beginning, although the listing of interpretations is sometimes simplistic and muddled. For example, Smallwood says that Frederick Jackson Turner's famous argument that the frontier fundamentally shaped American political culture somehow helps explain the dominance of two parties in the United States, but he does not say how or why frontier individualism helped create or support a two-party system. Smallwood also ignores important theoretical writing that would have helped him organize and explicate the more complex elements of third parties. For example, concepts developed by James Sundquist or Walter Dean Burnham would have added depth and clarity to Smallwood's theoretical and historical chapters. Smallwood also uses some terminology in confusing ways; his use of the term *ideological* in the early chapters is especially confusing.

Those interested in alternatives to the present Democrats and Republicans will find several of them well presented here. Those interested in more theoretical aspects of the party system will find the book less useful. Most observers now agree that political parties (along with other political institutions) are in a crisis of serious proportions, involving mass apathy and cynicism as well as inability to address issues and resolve critical problems. Whether the party system faces realignment or dealignment remains in question. In past periods of crisis (the 1850s and 1890s, for example), third parties have been important instruments for pointing the way out of crisis. Since then, the major parties have secured their positions with various pieces of legislation. Whether third parties can play their old role in the 1980s remains an important question.

Stuart Lilie is a political science professor at the University of Central Florida.

Rekindling The Case for Freedom

How You Can Find Happiness during the Collapse of Western Civilization
By Robert J. Ringer
New York: QED/Harper & Row.
1983. 261 pp. $14.95.

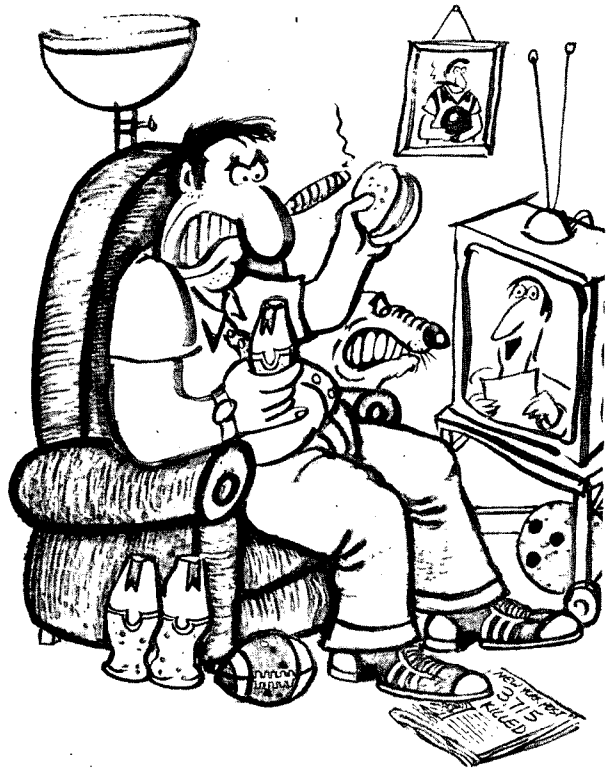
Reviewed by David M. Brown

I have a vested interest in the continued literary and financial success of Robert J. Ringer. Not only do I enjoy his books enormously, but it was also Robert J. Ringer, after all, whose writing first excited me about radical individualist ideas. And although I have subsequently become even more entranced and fascinated by the work of novelist-philosopher Ayn Rand, Ringer has always had my gratitude for initially exposing me to the case for egoism and its political consequence, liberty.

Not everyone applauds Ringer as I do, though—for many individualists, he has always posed something of a dilemma. Won't nasty-sounding titles like *Winning Through Intimidation* and *Looking Out for #1*, such faint-hearted folks cry, merely incur the hostility and incomprehension of sympathizers with today's left-leaning Establishment, ultimately hurting rather than helping the cause of liberty?

I disagree. Actually, *any* contemporary book forcefully supporting individualism, and attacking collectivism, is likely to be scorned by those who mistrust freedom and rational self-interest. The point is that by means of his popularly written, breezy bestsellers, Ringer has enlightened many who might never have picked up the works of more careful but less widely read thinkers. Surely the honest reader will look past a provocative title to discover the nature of the material it stands for.

Ringer's latest bestseller, *How You Can Find Happiness during the Collapse of Western Civilization*, is as delightful as his others. His much-beleaguered alter ego, the Tortoise, here returns to the stage in full color as *Collapse*'s main persona, so that the Western world's deterioration, and how it should be dealt with, might be slickly explained via humorous cartoon and chummy anecdote. All in all, the book deserves to be labeled an outstanding success.



"Whaddaya mean you're interruptin' da game to tell me dat Western Civilization's collapsin'? I'm gonna write my congressman!"

This does not mean, however, that it is without flaws. These derive mainly from Ringer's characteristic philosophical sloppiness. (The worst example is his announcement, in the first chapter of *Restoring the American Dream*, that the foundation of every philosophy is "just an opinion"—thus calling into question his whole argument on behalf of liberty.)

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In *Collapse*, the main error emerges in Ringer's discussion of the supposed causes of Western civilization's ongoing collapse, the significance of which provides the connective tissue stitching the book together. Ringer apparently holds that morality is a philosophical primary, which leads him to make statements like: "In a very literal sense, the moral standards of a civilization constitute its foundation." This is sheer nonsense. While the influence of morality cannot be ignored, it depends always upon a groundwork of metaphysics and epistemology; what is right conduct for human beings depends on the nature of reality and of knowledge, but Ringer fails to make clear the connection. In the case of Western civilization, and specifically America, it is the *epistemology of reason* that led to the morality of achievement that Ringer extols. The inverted, reward-losers-and-punish-winners ethic that he finds so repulsive was made possible only by the disintegration of that indispensable base.

There are a host of other slipshod formulations (such as fuzziness on the distinction between *pragmatism* and *practicality*, and the blatantly false assertion that "there is...no such thing as an absolute need"), which I will leave for the reader to dissect.

But *Collapse* is worth reading, notwithstanding its shallowness. As far as it goes, it is usually accurate and on the mark, and many of its enunciations are very well taken indeed.

For example, Ringer stresses the need of humans continually to strive, to pursue rational goals; and the bulk of his volume is devoted to setting forth principles that will help bring success to those striving in a world where the conditions that would best enhance it are progressively deteriorating. It can be argued, in fact, that much of the book's achievement is due to the author's ability smoothly to intertwine competent advice to the reader with a plausible description of the economic-social decline that makes the advice necessary. The combination is irresistible.

Ringer wants his readers to "get to the crux of the matter," and he often manages to do that himself. His recapped personal experiences make his self-help points crystal-clear, and he exposes governmental shenanigans with ease and wit. Although, to be sure, few if any of Ringer's ideas are really new, it must be admitted that he rehashes brilliantly.

In my favorite section of the book, modern "liberals" are divided into their five component types: uninformed liberals, ignorant liberals, confused liberals, phony liberals, and malevolent liberals. As Ringer glibly demonstrates, each of these is inherently wrong-minded. About them all he writes:

In reality, the fact that a person may call himself a liberal is irrelevant. He might just as well call himself a "socialist" or "communist," because, in the final analysis, all three of these banners advertise a belief in compulsory compassion, *which necessitates a belief in the morality of sacrificing the rights of some individuals to the so-called good of others.*

A more appropriate name to describe all three—liberals, socialists, and communists alike—would be "theftists," because all three share a deep-seated belief in the morality of theft. Underneath all their benevolent propaganda, they tenaciously adhere to the perversity of this position.

Despite its shortcomings, *How You Can Find Happiness during the Collapse of Western Civilization* makes fine reading, especially for those unfamiliar with its basic ideas. For people who haven't yet tasted the delights of individualist literature, it is a nice place to start.

David Brown is a student at Cornell University. He was a 1983 REASON summer intern.

The Only Villains In the DeLorean Drama

Dream Maker: The Rise and Fall of John Z. DeLorean
By Ivan Fallon and James Strodes
New York: G. P. Putnam's Sons.
1983. 484 pp. $20.00.

Reviewed by Jeff Riggenbach

John Zachary DeLorean is a Detroit autoworker's son who worked his way through both engineering school and business school, then rose dramatically through the management ranks at General Motors, only to resign just a step or two away from the presidency of the company. DeLorean had been widely credited with almost single-handedly

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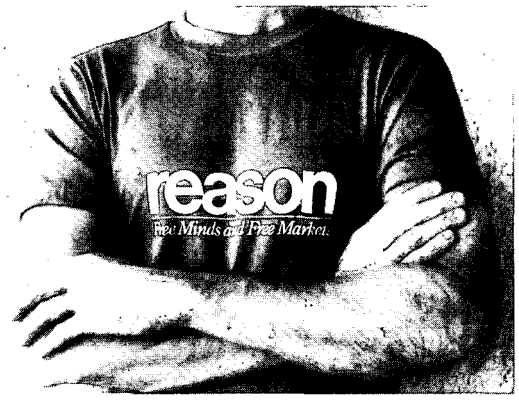

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rehabilitating, reorganizing, and reinvigorating GM's sagging Pontiac Division back in the 1960s. He was said to have been the creative spark behind the Tempest, the GTO, the LeMans, the Firebird—the cars that transformed Pontiac into the automotive success story of the decade. There had seemed to be no limit to what John DeLorean could achieve at General Motors.

But now he was leaving—and talking about starting his own firm, the DeLorean Motor Company (DMC), which would manufacture an ultrasafe, technologically advanced, high-performance luxury sports car packaged in a sleek, stainless steel body with gull-wing doors. DeLorean needed tens of millions of dollars to get DMC off the ground; he had less than a million dollars himself. And he quickly found that he was unable to raise the rest by tapping private sources of venture capital.

Venture capitalists, you see, seldom risk their own money on a project they have not studied carefully. And from the beginning, everyone who studied DeLorean's DMC proposal carefully called it too risky to justify investment. One Wall Street auto analyst, David Healey, told the *Wall Street Journal* in January 1979, "When people ask my advice about investing in Mr. DeLorean's venture, I tell them to put the money into wine, women and song. They'll get the same return and have more fun."

So DeLorean began looking to governments for his capital—governments like those in Puerto Rico and Ireland, which were eager to do what, under the name of "industrial policy," some now propose that the US government do: use tax proceeds to invest in heavy industry to "create jobs" and "stimulate economic growth." Governments, however, have little incentive to study investment opportunities carefully. If they lose money on an investment, it doesn't really matter. It isn't their money anyway, and there's plenty more—an endless supply, in fact—in the taxpayers' pockets where it came from.

Thus it was that the governments of Puerto Rico and the two Irelands actually rushed in where private investors with their own money to lose had feared to tread. Thus it was that the three governments actually bid against each other competitively for the privilege of investing in DeLorean's new venture money they had expropriated from their citizens.

Northern Ireland "won" this competition, with the result that during the years 1980, 1981, and 1982 the British government poured nearly $100 million of the British taxpayers' money into the DeLorean Motor Company of Belfast and New York. The British had studied DeLorean's project and knew it to be a high-risk venture. And, as Ivan Fallon and James Strodes document in detail in the *Dream Maker*, they chose to take that high risk anyway—for political reasons.

In the short term, they judged, the DeLorean project would create jobs and serve as a highly visible symbol of hope and new good fortune for Ulster. Politicians, of course, generally think only in the short term, typically no farther ahead than the next election. But even in the short run, DMC never proved to be much of a boon to Belfast. Some workers received wages for building an auto factory, true. But scarcely a year after the DMC-12 sportscar actually began rolling off the Northern Ireland assembly line, the factory was in receivership and only weeks away from closing its doors permanently.

Businessmen, no matter how ambitious and unscrupulous, cannot force anyone to deal with them.

Why did DMC go under? Fallon and Strodes accuse DeLorean of running the firm into the ground, both by gross mismanagement and by diverting millions of dollars of badly needed company funds into his own insatiable pocket. They assert further that the public proved reluctant to buy many DMC-12s at upwards of $25,000 apiece, because it was a mediocre and undistinguished car. DeLorean, they assert, had never been concerned enough about the matter to do what needed to be done to ensure that the DMC-12 would be an excellent car. He had been too busy, they say, living his flamboyant and extravagant lifestyle and shamelessly manipulating the media, whose representatives never seemed to catch on to the fact that DeLorean was only promoting himself, tooting his own horn, hogging the show.

Finally, they say, out of money, with little or no income and little or no credit, and with that very expensive lifestyle to keep up, DeLorean did what anyone familiar with his life-long history of shady and unethical business dealings might have guessed he'd do sooner or later: he descended to the level of a common criminal. He involved himself for profit in a criminal conspiracy to smuggle a large quantity of a dangerous, mind-altering, habit-forming, proscribed drug into the United States.

Or so, at any rate, it has been asserted by the US government. Fallon and Strodes write at times as though DeLorean had already been tried and convicted on these charges—just as they write at times as though the mere fact of a lawsuit's having somewhere been filed against DeLorean constitutes evidence that he did in fact commit the unsavory deed(s) attributed to him by the lawsuit. They seem oddly eager to prove that DeLorean had never had a decent bone in his body, that he's been nothing but a fraud from the very beginning, and that he's never really accomplished anything worthwhile—unless you figure it's worthwhile publicly to claim credit for other men's ideas and achievements.

They even go to the absurd length of trying to make out some kind of pseudo-metaphysical case for the proposition that DeLorean was a maker of dreams, that "we" (meaning I'm not sure who) somehow or other entrusted to DeLorean the task of embodying our dreams in automobiles and that he violated this sacred trust. But I don't know anybody who ever entrusted his dreams to John DeLorean.

Fallon, who is the financial editor of Britain's *Sunday Telegraph*, and Strodes, a free-lance economics and business writer based in Washington, assemble a reasonably persuasive case against DeLorean as an unscrupulous and sybaritic wheeler-dealer who has always put his own limitless personal ambition ahead of everything else. But so what? If you don't like people of that kind, you don't have to do business with them, do you? You're free to take your business elsewhere, aren't you?

Well, not always. The people of England weren't. They were *forced* to put their money into DeLorean's auto business by a handful of politicians and bureaucrats who thought that the short-term creation of jobs and the hopeful

symbolism of it all would be useful to the cause of their party's victory in the next election. And these politicians and bureaucrats are the only real villains in the piece. Businessmen, no matter how ambitious and unscrupulous, cannot force anyone to deal with them. Governments, on the other hand, can and do.

Contributing Editor Jeff Riggenbach is a nationally syndicated columnist and radio commentator.

Why the Pols Like to Set up Businesses

Uncle Sam's Private, Profitseeking Corporations
By Lloyd Musolf
Lexington, Mass.: Lexington Books. 1982. 126 pp. $18.95.

Reviewed by James T. Bennett

The federal government has always been actively involved in every aspect of private-sector activities, including the chartering of private, public, and quasi-public corporations. Between 1791 and 1944, some 288 corporations were chartered by acts of Congress (whereas most corporations are chartered by individual states), starting with the first Bank of the United States and including purely private concerns such as the Union Pacific Railroad and the quasi-public Federal Reserve. In *Uncle Sam's Private, Profitseeking Corporations*, Musolf considers four corporations that were chartered by Congress and became "private," profit-seeking entities in the past two decades: the Federal National Mortgage Association (Fannie Mae), the Consolidated Rail Corporation (Conrail), the Communications Satellite Corporation (Comsat), and the National Railroad Passenger Corporation (Amtrak). As a political scientist and director of the Institute of Governmental Affairs at the University of California at Davis, Musolf attempts to discern the intent of policymakers when privateness and profit seeking are stressed in a quasi-governmental context. Musolf's primarily historical approach emphasizes the legislative histories of the origins and development of the organizations under study.

The "plausible explanation" that the author gives for the invention of these "mixed enterprises" is that "policymakers, finding government action unavoidable in sensitive segments of the economy, sought a compromise that had the appeal of freshness and incorporated unreproachable societal values." This pithy statement deserves close examination. The policymakers referred to are politicians; it is plausible that their major concern is enhancing their power and remaining in office. And what segments of the economy are "sensitive"? Notice how often they are the ones that have political clout and can deliver votes and campaign contributions at election time—for example labor unions in the housing industry, construction firms, and home purchasers. So it is not too surprising that action is deemed "unavoidable" when the outcomes produced by the market are not desirable from a political perspective; that is, government action can be used to reward special interests that, in turn, have a high probability of benefiting the politicians.

Historically, though, the principal reason that markets were not producing desirable outcomes was that government regulation and intervention in these sectors of the economy restricted output, increased costs, and lowered productivity. For example, Conrail was formed to rescue the railroads in the Northeast from bankruptcy, a condition that can largely be attributed to Interstate Commerce Commission regulations that prevented the companies from abandoning service on unprofitable routes and to labor regulations that fostered featherbedding and excessive labor costs. It is by no means clear that government action was "unavoidable."

Even in the case of Comsat, set up to get communications satellites into orbit, it should be kept in mind that international communication links by undersea cable, a massive undertaking at the time, had been accomplished solely by private firms without the taxpayers anteing up a cent. What, in effect, was called for was *less* government involvement in these sensitive sectors, rather than more.

Federal chartering of "private," profit-seeking companies to undertake public policy has the "freshness" attributed by Musolf only in the sense that

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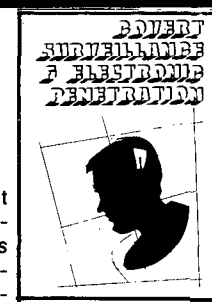

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it represents a departure from the more-usual practice of creating government bureaucracies to subsidize or regulate in favor of special-interest groups. The phrase "unreproachable societal values" apparently refers to the notion that a government-created corporation that, although theoretically private, receives taxpayer subsidy is socially more appealing than outright nationalization.

As Musolf correctly observes, one of the most critical reasons for creating these corporations is that their activities are removed from the federal budget. Fannie Mae's mortgage purchases, for example, would have further swelled a large and growing federal budget. Any thought that profits are made by these "profit-seeking" entities must be taken with a massive grain of salt. Amtrak's and Conrail's financial problems are legend—Congress appropriated more than $11 billion for the railroads in one five-year period alone. Comsat receives implicit subsidies from the government, because it undoubtedly does not bear the full cost of either research and development or the operation of satellite-launch facilities. Fannie Mae enjoys a privileged position in the financial markets: it has no real competitors, may borrow from the federal government, and is exempt from state taxes; and firms that do business with it are required to purchase its stock. One would be hard-pressed to argue that the corporations created by the federal government compete on an equal basis with or are subject to the same market forces as truly private firms.

One issue that the author does not address is why some federal activities have not been spun off to the private sector. For example, the Tennessee Valley Authority is the nation's largest electric utility (and one of the largest in the world) and is the largest producer of fertilizer. There is no valid economic rationale for federal generation of electricity or production of fertilizer. The TVA, however, has already been placed off the federal budget, and it provides a useful political mechanism for politicians to have taxpayers in other parts of the nation subsidize residents of the Southeast.

In effect, Congress has created "private" corporations that theoretically seek profits as a way for politicians to cater to special-interest groups. Such "off-budget" entities are even more prevalent at the state and local levels of government. There is a great need for taxpayers to become informed about the machinations of politicians in moving government off the books. This work represents a good start but only scratches the surface of an issue that certainly will grow in importance as the state expands.

James T. Bennett is a professor of political economy at George Mason University in Fairfax, Virginia, and the coauthor, with Thomas DiLorenzo, of Underground Government: The Off-Budget Public Sector.

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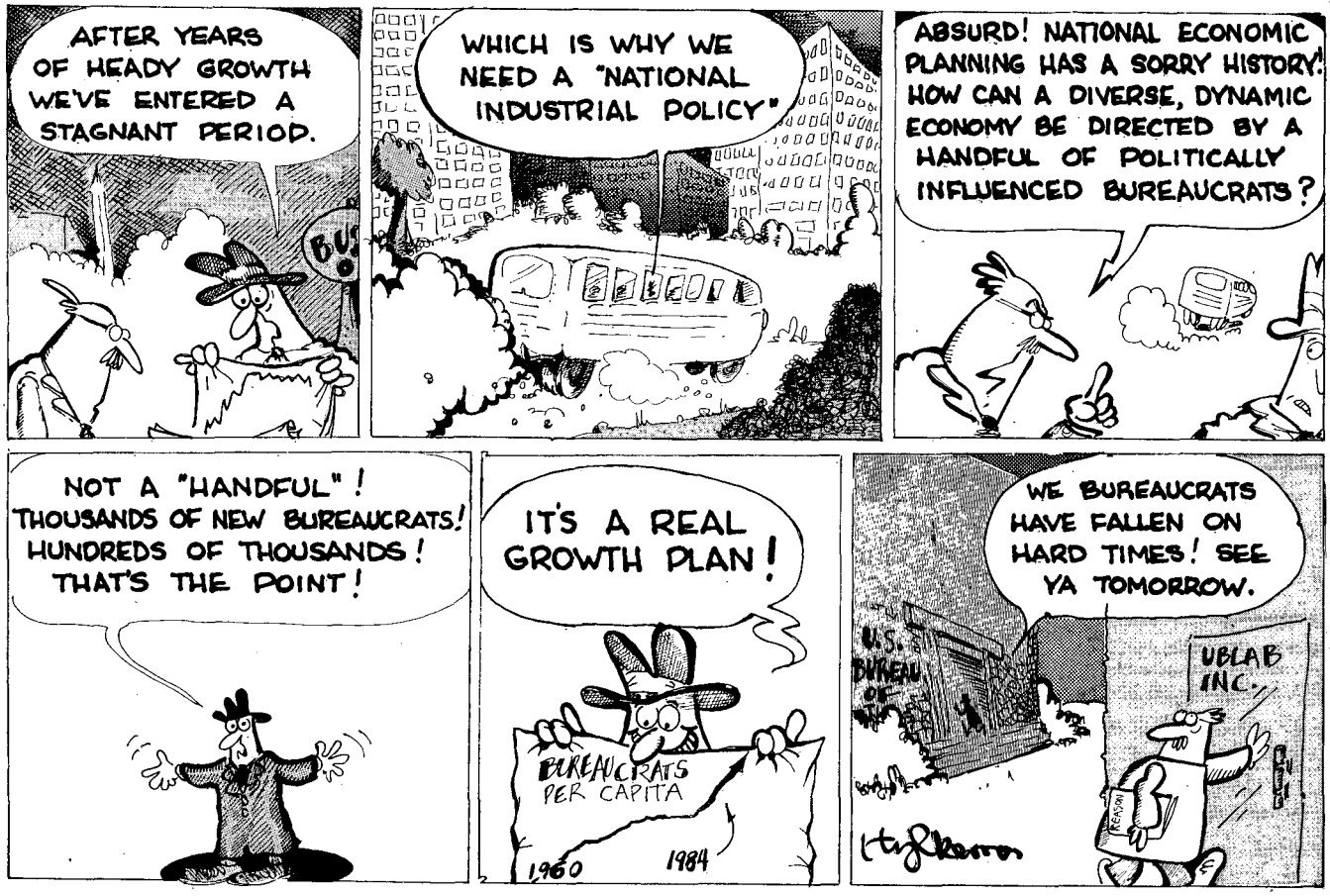
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People who have to pay for at least part of their health care use medical services, on average, one-third less often than those for whom such care is "free." When we reported on that finding two years ago in Trends, it was still an open question whether cost sharing and its reduced use of medical services results in poorer health, a widely predicted outcome. But now, the second part of a major study funded by the federal government and conducted by the Rand Corp. has found no significant negative effects on health.

In the study designed to test the effects of different health-insurance arrangements, nearly 4,000 persons were monitored over periods of 3 or 5 years. Only a slight improvement in the vision of nearsighted people and a slight decrease in the blood pressure of hypertensive poor people—which, in that group, reduced by one percent the risk of early death—were correlated with access to free care. The Rand researchers found no evidence that the greater use of medical services under free care improves the average person's general health or health habits, such as smoking and diet, associated with heart disease and many types of cancer.

GROWING PROBLEMS IN CALIFORNIA

The victims of California's Agricultural Labor Relations Act and its biased administration favoring the United Farm Workers (UFW) union, reported by Patty Newman in REASON's September cover story ("Harvest of Power"), include farm laborers and their employers. A dramatic confirmation of Newman's conclusion was provided recently when one of the largest growers of fruits and vegetables in California's Imperial Valley, Abatti Produce, Inc., announced in December that it plans to get out of the farming business altogether.

The reason, according to a company statement quoted in the *Los Angeles Times*, is "the atmosphere of confusion, intimidation and coercion which has resulted from the efforts of the Agricultural Labor Relations Board and the United Farm Workers to coerce Abatti Produce, Inc., into either agreeing to a collective-bargaining agreement on terms dictated by the UFW or else facing a potential . . . liability which the ALRB's regional director claims is approximately $18.5 million."

Abatti had hoped to end a decade of labor problems by offering its 2,500 workers a contract including wage hikes of about 20 percent and a cash-and-benefit package of more than $1.45 million, most of which would have gone to settle outstanding UFW charges of unfair labor practices. The statement included a remark by company president Ben Abatti that "other major growers may follow suit until the ALRB and UFW oppression is stopped."

SUNKIST SQUEEZES HARDER

In 1981, REASON authors Michael McMenamin and Diane Connelly exposed the lobbying of the nation's largest orange-grower cooperative to keep in place the government-fostered price fixing that drives up the cost of citrus fruit (and other farm products) for consumers ("How Sunkist Put the Squeeze on the FTC," Nov. 1981). As sensible as a free market in oranges and lemons would be, big citrus growers like Sunkist will have none of it. In November, the growers again flexed their political muscle on Capitol Hill. After intense lobbying, Congress cut off funds for the Office of Management and Budget even to *review* the marketing orders by which growers control prices (OMB Director David Stockman has been a vigorous opponent of the orders).

Ironically, the growers have a powerful friend in the White House. Last May, President Reagan had announced his intention to modify marketing orders, because they interfere with the dynamics of a free market—but by December, he was singing quite a different tune. After a White House breakfast meeting with presidential counselor Ed Meese, Agriculture Secretary John Block, Sunkist lobbyist Jim Lake, and Sunkist executives, the White House abandoned its plans to reform or abolish the existing system.

Meanwhile, serious battles over marketing orders are being fought in the courts. The *New York Times* reports that Sunkist has successfully pressured the Justice Department into suing defiant orange grower Carl Pescosolido (Spotlight, April 1983) for selling too many oranges. The government wants Pescosolido and his partners to forfeit the $3.4 million they took in for oranges shipped from 1978 through 1981 in excess of the quota assigned them by the Navel Orange Advisory Committee, which is dominated by Sunkist.

But Pescosolido is being represented by Dan Burt of the Capital Legal Foundation, a libertarian public-interest law firm in Washington. Burt (another REASON Spotlight subject, July 1982) has gone on the offensive, filing suit to have the quantity controls declared unconstitutional.

AND MORE

• *Cable able.* "It might occur to the mere and actual consumers of television services to ask why they must settle for one and only one cable company," Tom Hazlett wrote in "The Viewer Is the Loser!" (July 1982). Century Federal, Inc., a cable company, evidently agrees. One of five firms to apply for a franchise in three communities in California, it has filed a lawsuit contending that the practice of granting exclusive rights to serve an area violates the First Amendment's free-speech provision. Meanwhile, Pacific West Cable Co., a losing bidder for a cable franchise in Sacramento, is challenging that city government's right to grant an exclusive franchise. Pacific West is arguing that exclusive franchising violates antitrust law.

• *Contracting expanding.* In December, the town council of Troutman, North Carolina, voted to hire Investigations and Securities, Inc., of nearby Statesville to provide police service for the town of 5,000. So the legend of Reminderville, Ohio ("Cops, Inc.," Nov. 1982), lives on. On another front, the Corrections Corp. of America (see Trends, Jan.) has begun building its first prison, under contract to the Immigration and Naturalization Service. The Houston-area facility is expected to begin operation this year.

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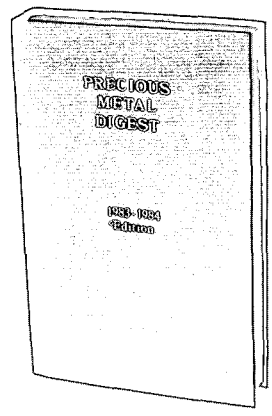

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ST/O/P

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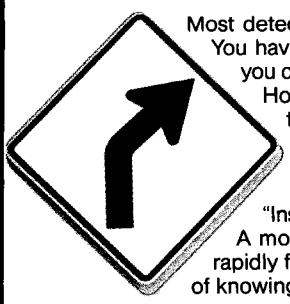
RADAR REPORTER

If you're the sort who notices legends in the making, you've seen what car magazines have been saying about ESCORT. "**All things considered, the ESCORT is the best piece of electronic protection on the market**," concluded *Car and Driver.*

Subtle Meaning

"Protection" is the word to remember. It means *more* than just long distance warning. Our superheterodyne circuitry finds radar—wherever it may be hiding. But the key to ESCORT's industry-leading protection is the *way* in which it warns you.

Red Alert



Most detectors simply sound an alarm. You have to go on full alert, because you don't have enough information. How close is the radar? Just over the hill, or a mile away? Is it ahead or behind? X band or the insidious K band?

And how is it being used? "Instant-On" from a stationary trap? A moving radar unit approaching rapidly from ahead? You have no way of knowing.

Advantage ESCORT

ESCORT gives you the full report on radar. Upon radar contact, the alert lamp responds and the analog meter shows radar signal strength. At the same time, you will hear an audio warning—pulsing slowly when the radar is weak, quicker as it strengthens, then constant as you approach close range.

ESCORT even uses a separate warning tone for each radar band. "Beep" for X band, a more urgent "brap" for K band because you have less time to act. And always, there is the meter for quick visual verification.

ESCORT tells you everything you need to know about radar encounters, while other detectors leave radar an unsolved mystery.

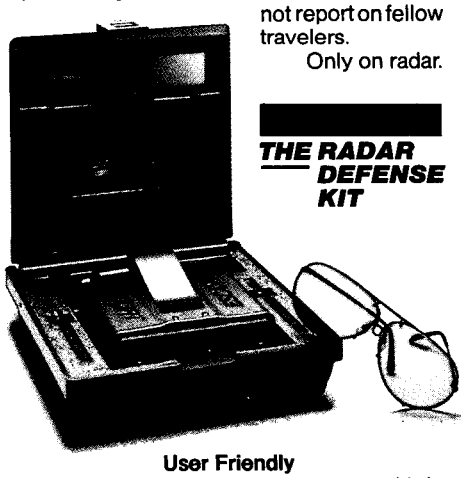
Whom Can You Trust?

Another problem with most detectors is false alarms. They sound off so often you're never sure if it's radar or something else. And recently the problem got even worse.

Some short-sighted marketers began importing cheap detectors from overseas. But these units had a slight problem. They *transmitted* radar signals on both radar bands, setting off all detectors for up to a mile away.

We quickly responded with ST/O/P™ (STatistical Operations Processor), special digital circuitry to recognize and reject these spurious signals. With ST/O/P, ESCORT does not report on fellow travelers.

Only on radar.



THE RADAR DEFENSE KIT

User Friendly

And when the warning does come, it's in a friendly voice. The audible warning is the same frequency used for Morse code (1024 Hz). And a fully adjustable volume control lets you set the level—ESCORT can cut through a Ferrari's interior noise, or leave a resting passenger undisturbed. Even the alert lamp is carefully thought out. It's bright enough to be seen in direct sunlight, but is automatically dimmed during nighttime radar encounters.

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